

THE Compleat
SOLLICITOR
Performing his
DUTY:

AND
Teaching his CLYENT
to run through and manage his
own Business,

As well in His Majesties
SUPERIOUR. COURTS
at WESTMINSTER,

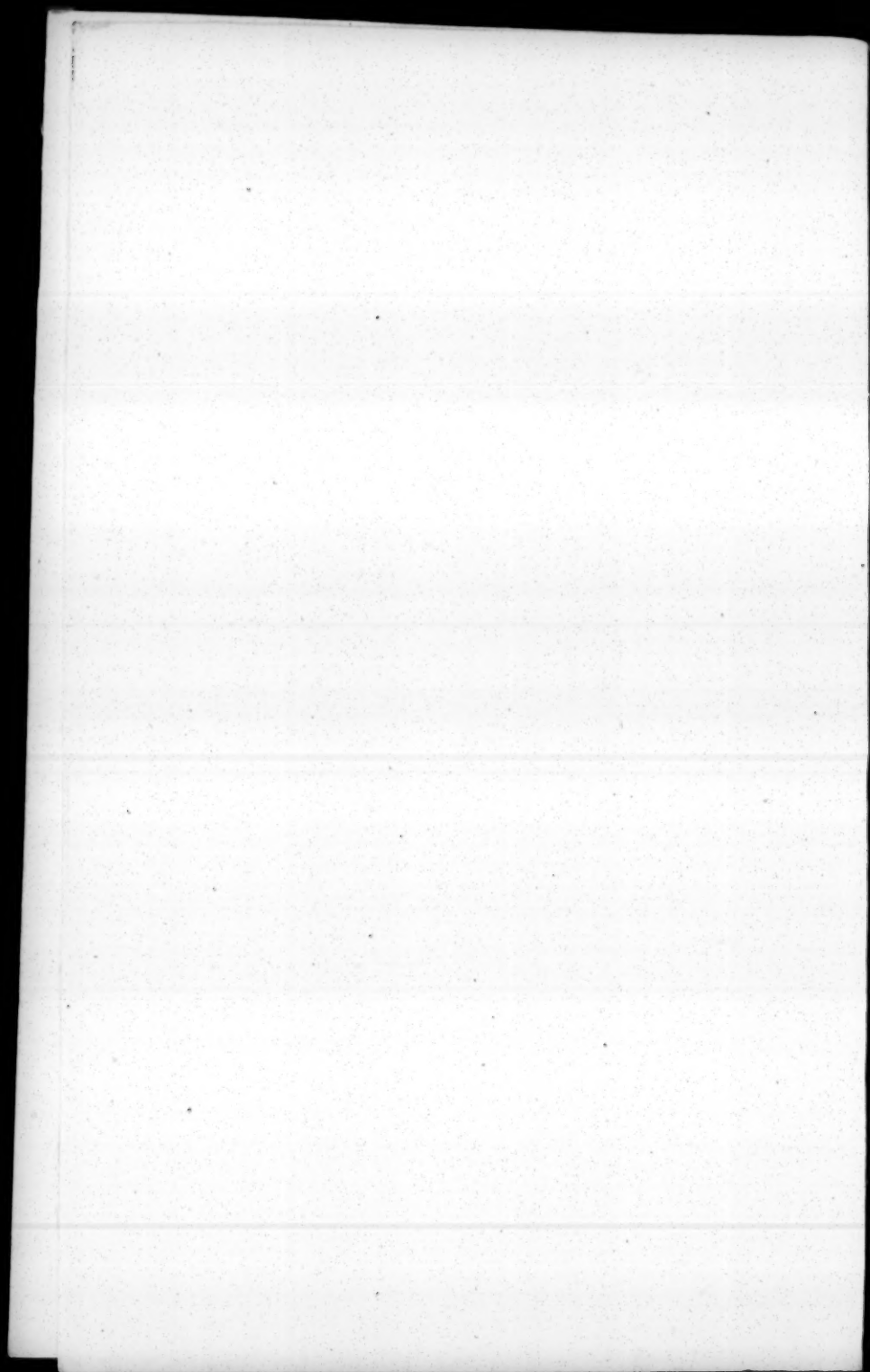
As in
The MAYOR'S C R I,
Court of HUSTINGS,

And other Inferiour Courts, both in the
City of London, and elsewhere.

Scire tuum nihil est, nisi te Scire, hoc, fac alter.

London, Printed by J. Streater, J. Fleisher, and Henry
Twyford; Assigns of Richard Atkyns and Edward
Atkyns Esquires; Anno Dom. 1668.

Cum gratia & Privilegio Regiæ Majestatis



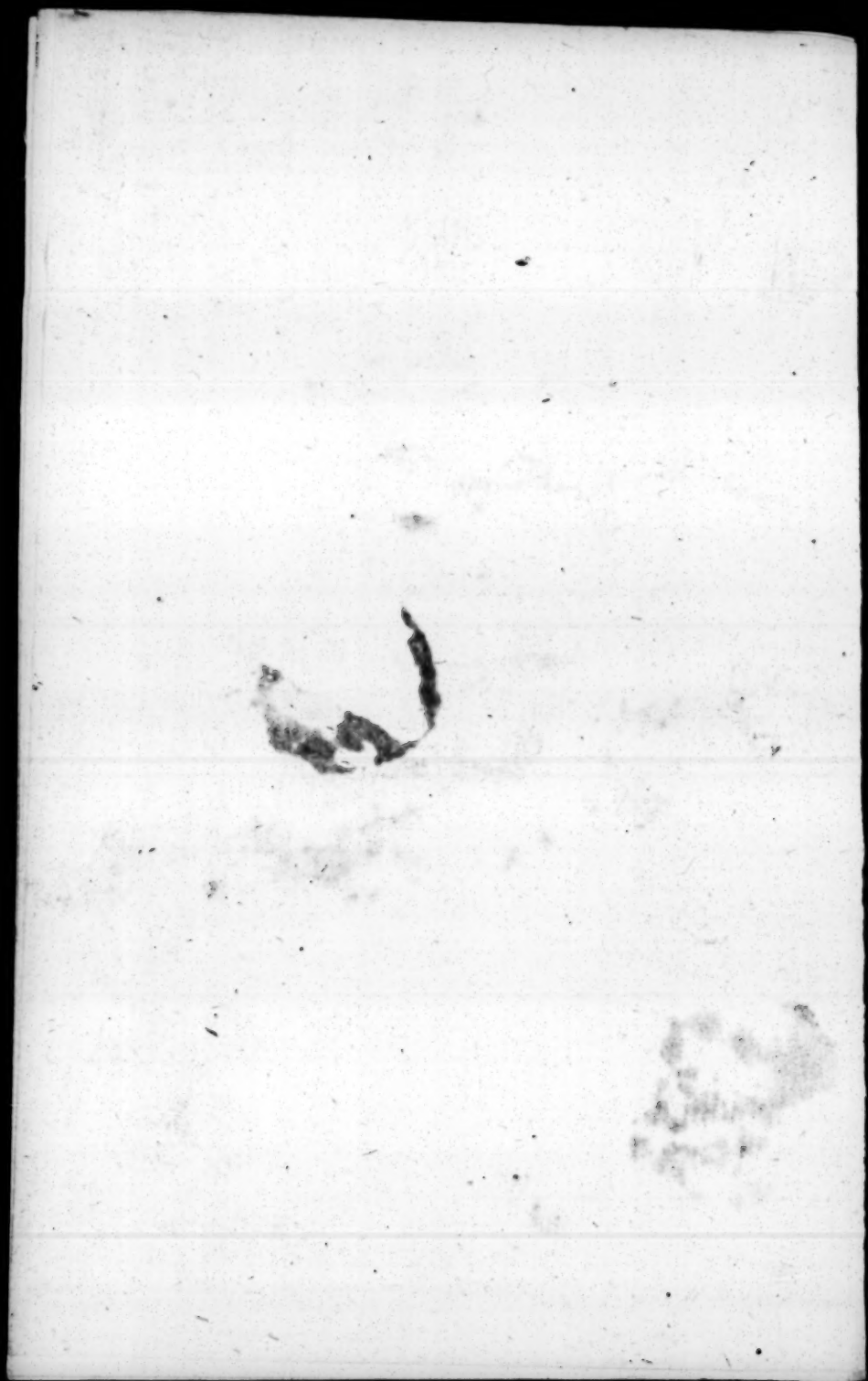
for
simplex

to Richard
Hibber

Yakovus ha...
empta jobe you
present in the high place
of the Lord
two hundred

for

of the



THE Compleat
SOLLICITOR
Performing his
DUTY:

AND
Teaching his CLYENT
to run through and manage his
own Business,

As well in His Majesties
SUPERIOUR COURTS
at *WESTMINSTER*,

As in
The MAYOR'S C ^O_{RT},
Court of HUSTINGS,

And other Inferiour Courts, both in the
City of *London*, and elsewhere.

Scire tuum vobis est, nescite Scire, nec sciat alter.

London, Printed by *J. Streater, J. Fletcher, and Henry
Tryford*; Assigns of *Richard Atkyns and Edward
Atkyns Esquires*; Anno Dom. 1668.

Cum gratia & Privilegio Regiæ Majestatis.





To the Reader.

M*Any rough and cragg'd by-ways
have been a little trodden towards
the Intricate practice of the Law's
Mysterics; but no foot-path di-
recting thither so plainly beaten, as that any
one could by the trace thereof finde the way,
without being subject to any Aberrations:
And although many (and those not imperfect)
Guides and Directories have made some
publick appearance thereof, yet they want of
that perfection that should safely conduct the
Zealous Pilgrim through the fullen Deserts,
and over the Craggy precipices of this Her-
culean Voyage: Hic labor, hoc opus est.
It is a very easie matter to seem to Sollicite;
but a work of no small difficulty, for any one
to acquire himself to be Re-vera an Expert
and Judicious Sollicitor; not nomine tantum,
not superficially and historically to bear the
name of a Sollicitor: there have been (if there
are not) too many of them; and if not more
than*

To the Reader.

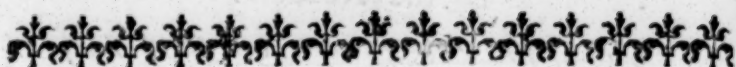
than are good, I doubt more than needs. It is not enough for the Solicitor to be as it were the Leader to the Attorney, or the Intelligencer to the Clyent; But to be experienced in the Rules, practice and proceedings of the Court where his cause depends, that he may be the more capable in the management of it, both Offensive and Defensive, and to perceive the Indications of its progress, state and declension.

There have appeared some practical treatises of the Law, pretending much to this purpose; but in effect perform nothing; but rather like Will with a Wispe in a dark night, lead a man out of his way, and there leave him. I have here opened the obscure Turnings of the Dædalian Labyrinth; or at least made such a Clew thereunto, as will lead the Sollicitous Solicitor through all its Mæandring intricacies; and have at every stage made a Bill of fare, so that he that will undertake the voyage, may before his Attempt count the Charges of his Journey, and furnish himself accordingly. For if any one attempt it unprovided, and fail by the way, he will be in a bad condition, and not only lose
the

To the Reader.

the hopes of his Adventure, but may raise a potent Enemie to pursue him at the heels backwards. Wherefore be sure before you make any such Expedition, Compute the Charge, and be sure to be well provided and armed for the whole voyage, if you intend to come to your desired haven; to which I wish all may come who imbarque in a legal cause; and in that progress I leave them: and may all others whose Pilots are Avarice, malice or vexation, suffer Wrack upon their own impetuous sands; and the ingenious and unbiassed Sollicitor, and legal Student, I wish he may reap the benefit hereby intended him.

An



An Advertisement.

YOU will herein finde more perhaps than may be thought convenient, in regard the great Authority of the Kingdome hath judged it meet to lay aside two of the Courts there spoken of, *viz.* the Star-chamber and Court of Requests. In answer to which, you may take notice that the offer of those Courts is not as to matter of present practice, but only that the less knowing and more juvenile practicer may perceiv what from antiquity hath been done, and how the same practice may (by their ingenious observation) be noted, to be derived to the present age through the clean Pipes of his Majesties present Courts of Justice, though not deducted through their Original Chanel. It is therefore hoped, that no offence will proceed to a candid eye, if it obliquely run them over with a glance; their innate necessity having at first not without reason claimed a high share in the maintenance of the Prerogative Royal.

Farewell.

THE



THE
Contents
OF THE
Sollicitor in Chancery.

CHAP. I.

OF the Carriage and Demeanor of a Sollicitor : by way
of Proœmium. Pag. 1

CHAP. II.

Of the Qualities wherewith a Sollicitor ought to be endued
to make him compleat, 9

CHAP. III.

What our Sollicitor ought to know, the better to enable him
in his Practice. 18

CHAP.

The Contents.

CHAP. IV.

Of the whole Duty of our Solicitor in his Practice, 22

CHAP. V.

*Other incidents wherein our Solicitor ought to be skilled,
and much relating to his Practice,* 51
A Table of Fees, 64

CHAP. VI.

How to enter into, and sue out a Recognizance in Chancery, 70

CHAP. VII.

The way how to sue out a Statute-Staple forfeited in Chancery, 72

CHAP. VIII.

*How to sue forth a special Supplicavit out of the Chancery,
and also how to supersede the same,* 73

CHAP. IX.

*Of the amplitude of this Court, and the Fees of Original
Writs in Chancery,* 75
The Fees of all Original writs sealed in the Chancery, 67

CHAP. X.

By way of Advice and Corollary, 81
In

The Contents.

In the Common Pleas.

CHAP. XI.

O F the Original and Foundation of this Court,	87
Sect. 2. The Officers of the Common-Pleas, as it is now established,	87
Sect. 3. Instructions for the first Commencing a Suit in the Common-Pleas,	89
Sect. 4. Of suing to the Outlawry,	93
Sect. 5. Of Appearances to the Exigent, and Declarations thereupon,	95
Sect. 6. The manner how to reverse an Outlawry,	103
Sect. 7. How to remove a Prisoner out of any inferiour Prison to the Fleet; or to remove a cause out of any Court to the Common-Pleas,	105
Sect. 8. General Directions for writs of Habeas Corpus, Error or Privilege,	106
Titles of Religious Houses and Colledges,	144
Communities, Societies, and Brotherhoods of Cities and Burroughs,	146
Parishes and wards in London,	Ibid.
Cities and Towns which have Sheriffs,	148
Sect. 9. Of suing an Attorney or priviledged person,	189
Sect. 10. The manner of suing forth a Fine,	152
Sect. 11. Forms of Writs of Covenant,	155
Writs of Covenant of Common,	Ibid.
Of Land and Sheep-walk,	Ibid.
Of Wood and a Foldage,	Ibid.
	of

The Contents.

Of 1100's,	156
A writ of covenant for Tythes,	Ibid.
A writ of covenant for divers things,	157
A writ of Covenant of Disms and Tythes,	Ibid.
Release by Fine of one to two,	158
Fine upon Cognizance de droit, by the husband and wife to two,	Ibid.
A Fine by Baron and Feme and another,	159
A Fine of a parcel in reversion by a Coparcener,	Ibid.
A Fine levied by husband and wife of a Mannor, to an Arch-Bishop, and one other	160
A concord from two to two, with special warranty,	161
A concord of a Mannor with a free warren and free fishing, by an Earl and his wife,	Ibid.
A Fine upon cognizance of Right, as that which he hath of his gift, with Release and warranty by husband and wife to a third person,	162
A concord of many things together, sur cognizance de droit come ceo, &c.	163
A Fine of a Rent,	165
A Fine of part of a Rent by husband and wife,	166
A Præcipe with an exception and saving of some parcels	Ibid.
A concord with a render for life, the remainder to the 1, 2, 3, &c. son of the Cognizor,	167
A Fine to a Corporation,	168
A Fine for Homage, Rent and Services,	169
A Fine of a Mannor and Knights fees and services by the husband and the wife, and others,	Ibid.
A concord of Lands in the County Palatine of Lancaster,	170
A Fine in the County Palatine of Chester,	Ibid.

The Contents.

A Lease for years, reserving a Rent by grant;	171
A Lease for years rendering Rent, with a render and distress;	172
A Lease for years saving the Reversion,	173
A Lease by tenant for life for one and twenty years, if she live so long,	174
A Lease to the wife for one and twenty years, to commence after her husbands death, reserving a Rent; the Cognisees grant back the same Reversion and Rent,	175
A Fine of a Remainder for years, reserving rent, and reserving the remainder to an Estranger,	176
A Lease in reversion paying a Rent,	177
A Lease to divers for an hundred years, if the parties live so long, reserving a rent, and the best Beast after the death of every Tenant; in the name of an Heir,	Ibid.
A Lease reserving rent, with a Nomine paxx and a distress,	178
A Fine upon Grant and Render to one for term of life without impeachment of waste, and for sixteen years after his death; then the one moyette to one and his heirs, and the other to another,	180
A Render for life, the remainder to one and his heirs males, the remainder to a other and his heirs,	Ibid.
A Lease for life, the remainder for life to the wife in Joynture, the remainder in tail,	181
A Fine where the husband buyeth lands, and granteth them again to the Consors for his wifes life,	Ibid.
A Concord of divers Tenements, Rents, a Rectory and Advowson, with the moyette of a Mill,	182

The Contents.

A Fine of a Fourth part to two,	183
A Fine of lands part in possession, and part in reversion, of a third part for term of the life of the tenant in Dower, and for the term of the life of another tenant for term of life,	184
A grant and render of a reversion and money,	185
Sect. 12. The course how to sue out a Recovery in the Com- mon-Pleas,	187
The form of a Writ of Seisin upon a recovery in Entry in the post,	188
The return of the writ of Seisin,	Ibid.
Recoveries for Assurances, &c.	189
Of what things writs of Entry may be brought, and by what names,	191
Of what things a writ of Entry lyeth not,	192
A Certiorari to the executor of the Justice before whom the warrants were knowledged,	193
A recovery with single Voucher,	195
A recovery with double Voucher,	Ibid.
A recovery with a treble Voucher,	196
A recovery of an advowson in the County Palatine of Chester,	Ibid.
A recovery of a writ of Right de Præcipe in Capite,	197
Remissio Curiae in Brevi de Recto,	200
The exemplification of a covenant enrolled, according to the statute 23 Eliz. cap. 3.	Ibid.
Perdon. alien. super ter. per breve de ingressu recu- perat,	202
Exemplification of a recovery with double Voucher out of the Prothonotaries Office,	204
Another to the like effect,	206
Sect. 13. A President in an Emitter for goods sold and delivered,	211

The Contents.

Sect. 14. Actions of Detinue,	216
Sect. 15. Of suing forth Executions,	217
Sect. 16. Actions upon the case,	221
where it lyes,	Ibid.
Sect. 17. Assault and Battery,	231
Sect. 18. Actions of trespass,	233
Sect. 19. Ejectione firmæ,	235
Sect. 20. Actions of Covenant,	237
Sect. 21. Actions of Trover and Conversion,	239
Sect. 22. Of Dover,	240
Sect. 23. Of the writ of Formedon,	247
Sect. 24. Quare impedit,	250
Sect. 25. Audita querela,	252
Sect. 26. Of wager of Law,	255
Sect. 27. Essoyn,	258
Sect. 28. How to prosecute a writ of Error, and reverse Judgment thereupon,	259

CHAP. XII.

T he several Fees due and payable to the Judges and Officers of the Court of Common-Pleas at West- minster,	266
Sect. 1. The Lord Chief Justice his Fees,	Ibid.
Sect. 2. The fees due to such of the Judges who perform the business,	267
Sect. 3. Divident-Fees,	269
Sect. 4. The puisne Judges Fees,	270
Sect. 5. Fees due to the Clerks of the Lord Chief Justice and other the Justices of the said Court,	271
Sect. 6. Fees due to the Custos Brevium of the Court,	273
Sect. 7. The usual Fees allowed by the Custos Brevium to the Clerks of his Office,	274
a 3	Sect.

The Contents.

Sect. 8. The usual fees allowed by the Custos Breviarum to the bag-bearer of the office,	275
Sect. 9. The fees of the Clerk of the Inrollments of Warrants and Executions in the Common Pleas,	276
Sect. 10. The Chirographers fees,	277
Sect. 11. Other Fees antiently paid to the Chirographers,	278
Sect. 12. The Chirographers Clerks fees for ingrossing of fines by the Attorneys which sue them out,	279
Sect. 13. Fees belonging to the Clerk of the Treasury,	280
Sect. 14. Fees for the Keeper of the Treasury, from 11 Eliz.	Ibid.
Sect. 15. The fees of the Clerk of the Kings Silver,	281
Sect. 16. The Philizers fees,	282
Sect. 17. The Exigencers fees,	284
Sect. 18. The Clerk of the Jurors fees,	286
Sect. 19. The fees of the Clerk of the Effoyns,	Ibid.
Sect. 20. Fees in the Attorney-generals office of Owltries,	287
Sect. 21. The fees of the Seal for Writs,	289
Sect. 22. Fees due to the Marshal and Proclamator of the Court of Common Pleas,	Ibid.
The four Cyers,	290
Sect. 23. The Cryers fees from 11 Eliz.	Ibid.
Sect. 24. The fees of the keeper of the Court, from 11 Eliz.	291
Sect. 25. The fees of the Clerk of the Inrollments of fines and recoveries,	292
Sect. 26. The Porters fees, from 11 Eliz.	293
Sect. 27. Alienation-office,	Ibid.
Sect. 28. Fees taken by the Master of the Chancery in that office appointed,	294
	Sect. 29

The Contents.

Sect. 29. The usual fees taken in the office of compositions for alienations, by the Clerks there,	Ibid.
Sect. 30. The under-Sheriff of Middlesex his fees in his Majesties Court of Common Pleas,	296
Sect. 31. The Warden of the Fleet his fees,	297
Sect. 32. More fees due to the said Warden,	299
Sect. 33. A table of the due fees of the Prothonotaries Court in the Common Pleas,	300
Sect. 34. Fees due to the Prothonotaries for writs, and the entries of them, amongst other dues,	309
Sect. 35. The Prothonotaries Clerks fees,	311
Sect. 36. The Prothonotaries Clerks fees for informations only,	313
Sect. 37. Fees due to the secondaries of the Prothonotaries in their several offices,	Ibid.

In the KINGS BENCH. CHAP. XIII.

Sect. 1. The proceedings in the Kings Bench as now it consists,	317
The subordinate Officers there,	318
Sect. 2. How to commence a suit in the Kings Bench,	322
Sect. 3. What cases require good Bail in the Kings Bench,	326
Sect. 4. How to proceed to declaration after appearance in the Kings Bench,	328
Sect. 5. How to draw up an Issue in the Kings Bench,	333
	333

The Contents.

Sect. 6. Of proceeding after Verdict to Judgement and execution,	339
Sect. 7. Fees of the Kings-Bench,	350
For writs,	Ibid.
Kings-Bench fees for Entries,	351
Kings-Bench fees of Clerks and Attorneys,	353
Fees received by the secondary,	354
Kings-Bench fees,	Ibid.
Fees received by the secondary for the Judge,	Ibid.
Fees received by the Judges Clerks,	355
Fees paid the Clerk of the Papers,	Ibid.
The keeper of the Postea's,	Ibid.
The keeper of the files for declarations,	356
Fees paid to the Clerk of the Rules,	Ibid.
Dogget-maker,	357
Keepers of the Bayls,	Ibid.
Keepers of the Rolls of Writs,	Ibid.
Fees claimed by the Crier and Porter,	359
Fees received by the Clerk of the Errors,	360
Fees upon a Writ of Error,	Ibid.
The Marshals fees,	362
The Clerk of the Fines,	363
Fees for tryals at Bar, taken by divers Officers,	Ibid.
Fees due and received by the Filacers,	364
Fees due upon tryals at Guild-Hall to the Officers of the Court,	366

The Contents.

In the EXCHEQUER.

CHAP. XIV.

Sect. 1. <i>The original of the Court of Exchequer, with the several offices thereof,</i>	367
<i>The subordinate Officers in this Court,</i>	369
Sect. 2. <i>A recapitulation of the Officers and Offices in his Majesties Court of Exchequer,</i>	370
<i>The Chancellor,</i>	371
<i>The under-Treasurer,</i>	372
<i>The Lord Chief Baron,</i>	373
<i>The second Baron,</i>	375
<i>The third Baron,</i>	376
<i>The fourth Baron,</i>	Ibid.
<i>The Chamberlains,</i>	378
<i>The Kings Attorney,</i>	Ibid.
<i>The Office of the Kings Remembrancers,</i>	379
<i>The Lord Treasurers Remembrancer</i>	382
Sect. 3. <i>The proceedings in the Exchequer by English Bill,</i>	387
Sect. 4. <i>The Articles of the late Court of Augmentations and Revenues of the Crown annexed to his Majesties Exchequer at Westminster,</i>	405
Sect. 5. <i>The Articles of the uniting the late Court of First-fruits and Tenths, to the Court of Exchequer at Westminster,</i>	412
Sect. 6. <i>The Office of Pleas belonging to his Majesties Court of Exchequer at Westminster,</i>	417
Sect. 7.	

The Contents.

Sect. 7. A distinction of the Exchequer-Officers of the superiour and inferiour Court of Exchequer: and first of the superiour Court,	419
Sect. 8. The Offices in the inferiour or lower Court of Exchequer, commonly called The Receipt,	423
Sect. 9. The Fees of the Exchequer,	426
The charge of an appearance in the Exchequer,	Ibid.
The charge of an Enrolment in the Exchequer,	427
Sect. 10. The charge of passing a Sheriffs account in the Exchequer,	Ibid.
Sect. 11. The ordinary charge for passing an account,	429
Sect. 12. Fees belonging to Sheriffs,	430

In the STAR-CHAMBER.

CHAP. XV.

Sect. 1. The antiquity and authority of the Star-chamber,	432
Sect. 2. The ancient practice of the Star-chamber,	436
Sect. 3. Of unlawful Maintenance,	439
Sect. 4. Giving Liveries,	442
Sect. 5. Embracery,	445
Sect. 6. Offences in the making of Panels,	446
Sect. 7. Taking money by Jurors,	447
Sect. 8. Riots, Routs, and Rebellious Assemblies,	448
Sect. 9. Counterfeits of false tokens,	450
Sect.	Sect.

The Contents.

Sect. 10. *The Practice and Fees in the Star-chamber;*

451

Sect. 11. *The manner of proceeding in the Star-chamber*

ore tenus,

460

In the Court of

REQUESTS

at *Westminster.*

CHAP. XVI.

What was the former Practice of this Court,

462

In the

MARSHALSEY

and Court of the Kings Palace at *Westminster.*

CHAP. XVII.

The antiquity, Judges, and Practice of this Court, 466

The ordinary fees of the Palace-court of Westminster,
to be paid by the Plaintiff, 468

Accidental fees, 470

Amercements due unto the King in the said Court, 472

In

The Contents.

In LONDON.

CHAP. XVII.

OF the customs of London, and divers Statutes made wherein London is excepted,	473
Sect. 1. Of Aliens and Foreiners,	Ibid.
Sect. 2. Of divers Statutes made wherein is London excepted, and their customs confirmed,	474
Sect. 3. Divers Statutes made for London,	480
Sect. 4. Apprentices,	482
Sect. 5. Attaints and Inquest,	483
Sect. 6. Of the Commission at St. Martins,	485
Sect. 7. where by the custome of London a man may wage his Law, & è contra,	486
Sect. 8. Feme sole Merchant,	488
Sect. 9. where by the custome of London an Action will lye before the day to finde better sureties,	489
Sect. 10. Of Market ouert,	490
Sect. 11. Of Covenant without Deed,	Ibid.
Sect. 12. Of concessie solvere, upon contracts made at Sea,	491
Sect. 13. Taking goods to pledge,	Ibid.
Sect. 14. Of Minpernors for the Defendant,	492
Sect. 15. Of Sequestrations,	493
Sect. 16. Contribution,	Ibid.

The Contents.

In the Court of
CONSCIENCE.

CHAP. XIX.

OF the Original of this Court; and the Practice thereof, 494

In the Court of
HUSTINGS.

CHAP. XX.

THE Antiquity of this Court, its Jurisdiction and Practice, 498

In the
SHERIFFS COURT.

CHAP. XXI.

THE Constitution and general Practice of the Sheriffs Court, 503
Sect.

The Contents.

Sec. 1. The particular Practice of the Sheriffs Court,	505
<i>The Plaintiffs charge,</i>	507
<i>The Plaintiffs charge to tryal, Judgement and Execution,</i>	510
<i>The Defendants fees,</i>	512
<i>In a Non-suit,</i>	Ibid.
<i>To a tryal,</i>	513
<i>Attachments, properly called Foreign attachments,</i>	517
<i>The Garnishees fees,</i>	521
<i>The Garnishes charge to a tryal,</i>	Ibid.
<i>To hinder the Garnishes paying Law,</i>	524
<i>Sequestrations,</i>	526
<i>The charge of a sequestration for the Plaintiff,</i>	527
<i>The charge in confessing a Judgement,</i>	528

In the MAYORS COURT.

CHAP. XXII.	529
--------------------	-----

CHAP. XXIII.

<i>Of Foreign Attachments in London,</i>	531
--	-----

Chap.

The Contents.

CHAP. XXIV.

Of the Court

OF ORPHANS

in the City of London,

537

CHAP. XXV.

Of several other Courts, Customs and Fran-
chises of the City of London,

538

The Court of Wardmote Inquest,

539

The Hal not,

Ibid.

The Chamberlains Court for Apprentices,

Ibid.

*The Court of the Conservator of the Water and River
of Thames,*

CHAP. XXVI.

Of the Court of

ADMIRALTY,

Ibid.

CHAP. XXVII.

Of Ecclesiastical or

SPIRITUAL COURTS,

544

CHAP.

The Contents.

CHAP. XXVIII.

The Court of the
DUTCHY-CHAMBER;
at *Westminster.* 546

CHAP. XXIX.

Of all other Courts of Record in Ci-
ties, Liberties, and Towns Cor-
porate, 549

The



The Compleat

46 SOLLICITOR,

IN

Equity and Common Law.

And First, in the High Court of
CHANCERY.

CHAP. I.

*Of the Carriage and Demeanour of a Solicitor:
by way of Prooemium.*

he **M**AN is not born to live with his Arms across; but rather, as one of the most necessary members of this beautiful frame of the world; he must confer and contribute his whole travel and pains to the conduction and conservation of that civil Society in which he is placed; not only to the good of himself, but of
B others

others also. But because that in the choice which men make of a Calling, their happiness in the managery thereof doth depend; and that nothing so much avails to the leading a contented life, as when they find themselves fit for the same: they ought before all other things to make a tryal of their own strength, and seriously bethink themselves of that charge they are about to embrace; because usually we presume too much upon our own strength, and attempt more then our ability is fit to atchieve: And this error we see is incident almost to all our actions. Hence it is, that some will spend more then their estates may well bear; others, in labouring and toying, go beyond their abilities: some are not masters of their passions; others there are, that in dalliance and sporting waste their time: and another sort there are, who are so vehemently Satyrical, that they will not spare any person, no not the Prince, although thereby they incur the hazard and penalty of losing their heads. Some are unapt to manage publick affairs, as being of a sullen and solitary humour, or of a slack and slow disposition; and others as unfit for all employment as any of the aforementioned, for that they be either obstinate in opinion, or discourteous and boorish in their behaviour and carriage. And that which maketh us to fall into these faults, is, for that we do not thorowly see and look into our selves, whence it cometh to pass, that thus neglecting to take a true tryal of our own towardness and strength, we do often undertake business of such gravity and weight, as that afterwards we must either abandon with ignorance and shame; or else to go on with them, we must needs suffer much grief, and displeasure.

Now that a man may the more warily weigh an affair before he put his hand to the Plough, (as we say) or his back to the burden, let him remember that the bearer

bearer must always have more pith then the burden : for if it be too great, or too heauey, who seeth not but that the undertaker should be constrained either to leaue it, or else to sink and fall under it, ere it be long ? It behoveth us also to consider, that there are diuers kinds of affairs ; some whereof are hard, uneasy and difficult ; not so much for that they be weighty and important of themselves, as for that they be marched and mingled with a multitude of other toylsome and troublesome busineses which continually attend and wait upon them. I speak not this to dismay, or so discourage any man, as to make him decline and eschew the undertaking of necessary and needful employments, (such as is this of our Solicitor) because of the many encumbrances and cares wherewith they may be accompanied ; so that not daring to intermeddle with any matter of moment, he should abide without business : but this is my whole intent and meaning, that seeing a mans life is naturally subject to pains, troubles and cares, it behoveth a man so wisely and warily to demean himself, that if it be his fortune to undertake the managing of any business, he neither be so feeble-hearted as to shun or relinquish them for their difficulty, nor yet so fool-hardy as to undertake such affairs as go beyond the reach of his ability. It behoveth therefore diligently to consider every undertaking : for, for want thereof, many have fallen into such kind of employments as have been painful for them to bear, and yet more uneasy to be abandoned : which being a case of so great difficulty, doth require both much prudence and patience, the two only proper remedies to lighten and ease an evil : with which two vertues, our Solicitor ought in an especial manner to be endued, as being to encounter a hard and difficult studie to gain the knowledge of the Law in some reasonable measure, before he

can, or rather ought to be admitted to the practick part; which as it hath in it something of gain and profit, so hath it also its extraordinary toyl and labour; which, it's true, at the first seemeth very irksome and tedious, but by continual usage becomes even as a natural habit. Just like poor prisoners, who suffer with great pains and torment at first the weight of the fetters that are put on their legs; but after they are once accustomed thereto, necessity teacheth them by the constant wearing thereof, not to think the same so burdensome. By which it appears, there is no manner of life, how strict, hard and laborious soever it be, which hath not some kind of solace and refreshment one or another, to sweeten the same. And truly there is not any one thing wherein Nature hath so much favoured mankind, as this, that she maketh us finde the remedy and mitigations of our misfortunes, cares, toyl and labour, even in the very sufferance and undergoing of the same.

The case then so standing as it doth, that man is born obnoxious and subject unto all manner of miseries, and that his whole life is nothing but a servitude, wherein every one ought to take good heed how to demean himself in his Calling, and how he may content himself therein, winking at that which is evil in it, and applying himself to that which is good: for there is no calling, (as I said before) howsoever painful and toylsome it be, wherein the patient soul doth not find some contentment and gain, though that cunning and skill be more exquisite in time of adversity than of prosperity: for when as difficulties do present themselves, then must we gather all the forces of our wits together, and set our whole vigour and vertue against such imminent and present evils.

Moreover, envy and Ambition are the two Cankers that corrupt all that are once tainted therewith, and
blear

blear the eyes, so that they cannot see to perform their duty aright, and as they ought to do. And therefore our Solicitor must not bear envy against such as are in higher place then himself, but ought to content himself in his proper station. For it is a main step to attain both practice, love and preferment, when he does prudently and discreetly carry himself in that estate and calling which he hath made choice of, taking patiently the evils that fall out therein, and endeavouring to redress such accidents as cross his desires. And for this cause *Plato* did compare the life of man to the Play at Dice, whereat whosoever doth play, ought always to strive to have a fair throw, and yet should content himself with any cast that doth come. The want of this satisfaction, maketh men of weak wit, upon the fortunate success of any business so to be elated and transported, that they scarcely know what they do; they grow so insolent, that no man can keep them company; they can abide nobody, and no-body can abide them; but if either by neglect, want of management, disfavour, or ill fortune, they are crossed in their designs, (though never so contrary to reason) they are so enraged or amazed, that you shall see them like unto one sick of a long and languishing disease, which can neither abide heat nor cold.

The Philosopher *Theodorus* was wont to say, that he gave his Scholars instructions and lessons with the right hand, but that they received them with the left. And so doth it fare oftentimes not with a few, who with the left hand take hold of the luck which Providence reacheth to them with the right. It were much better, in my judgement, discreetly to imitate the wise diligence of the Bees; which of Thyme, that is but a dry and harsh herb, extract and confect sweet and pleasant honey: so should every man in his

station, out of the troubles and sollicitudes of his life, draw whatever is good therein; and in the mean time, chase away what is evil, or so ease and cover it, that it may not be discerned. And who knoweth not but that such as exercise themselves in the actions of vertue, can by a secret and supernatural kind of Alchimy, draw good out of evil? *Diogenes* was banished; but he made good use of his banishment, in that he did in the mean time betake himself unto the study of wisdom. And this shall not be so difficult and hard to do, as it seemeth to be, if by frequent exercise he do endeavour to acquire the habitude and settled custome of living content in his condition. Can ye not abide in the houses of Princes or great men? Content you then with your own. Do ye find your self incapable to govern, or sit at the helm in the Commonwealth? Play then the good Citizens part, and be content to obey: for it is expedient that he that will undertake to be a Solicitor in every way compleat, must hold and keep a certain stayed and settled manner of living, and must not vary and change with every wind. Ye may see many much subject to this vice (for so I must call it) of changing their manner of living from day to day, so that they cannot ground or settle themselves upon any thing whatsoever. They appear like *Proteus*, never long in a shape: *modo Causidicum, modo Rhetora*, as the Poet speaks; wherein they resemble such as have never been accustomed to the Sea, who as soon as they begin to sail, run out of one vessel into another, leaving the bigger to put themselves into a lesser, and by & by leaving the lesser to return to the bigger again. And thus they continue in changing, untill what time they know clearly that nothing can fit them, because that whithersoever they go, their queazy stomacks still keep them company, and consequently their vomiting disease.

Like-

Likewise those that bring their passions with them unto their affairs, do seek incessantly after a new manner of living, and never accomplish what they have once begun. All things go against their stomachs, all things dispicase them; whether to be idle, or to be employed; to serve, or to command; to be married, or to be single; to have children, or to have none at all; finally, nothing doth fit their fancy, nothing doth satisfie their desire, save only that which they have not: and such methinks must needs live miserably and restlessly, as prisoners fettered in perpetual pain.

There is likewise another manner of men not much unlike the former, that cannot keep themselves quiet, nor be at any settlement, in any time, or in any place. They cease not to go and come; always intermedling with affairs, without being thereunto called; and busying and bestirring themselves about that which in no wise concerneth them. These men when they go out of doors, they run along the streets; they haunt the publick places, and then they return home full of vexation and weariness, without any design: for there is nothing that doth so much irk and weary mens minds, as to labour in vain. They are like unto the little Ants, which do creep upwards upon trees, and after they have mounted up to the top, have but the pains to creep down again the same way that they went up, without bringing down with them any good at all. Many live in this manner, whose life is nothing else but a moyling leisure full of tumults and toyls. Ye shall see them posting on with such vehemency & speed, as if they would carry away with them all that they find before them. The publick places, the Churches & Markers, are ordinarily full of such folks, These be they which forge and frame news at pleasure: They will be scanners of all mens worths, and the givers of garlands: They will talk lavishly of other

mens lives, and discourse of other mens offices. But the actions of a well-advised man, (such as a compleat Sollicitor ought to be) tend always to some certain end; neither doth he burthen himself with more busineses then he can with conveniencie turn his hand to, and put in execution: according to that of Cicero; *Omnis cogitatio motusque animi, aut in consiliis capiendis de rebus honestis, & pertinentibus ad bene beatq; vivendum, aut in studiis Scientiæ Cognitionisq; versabitur: Omnes enim trahimur & ducimur ad cognitionis Scientiæ cupiditatem: in qua excellere pulchrum putamus; labi autem, & errare, nescire, accipi, & malum & turpe ducimus.* That is: “Every thought and motion of
 “the mind ought to be employed either in consult-
 “ing of honest things, and such as may lead to a
 “good and happy life; or in the study of Arts and
 “Sciences, and the way to gain knowledge: for we
 “are all drawn, or, as it were, led by the hand to a
 “desire of getting knowledge, and bettering our un-
 “derstanding: wherein to excell, is accounted an
 “excellent thing; but to stray, deviate, be igno-
 “rant, and easie to be deceived, not only by others,
 “but also by our selves, is counted a great stain to
 “reputation.

CHAP. II.

Of the qualities wherewith a Sollicitor ought to be endued, to make him compleat.

THe former Chapter having treated in general of the necessity of knowledge to be sought and acquired by all men, we shall in this now descend to particularize the qualities wherewith every one ought to be endued, that intends to take on him the business of Sollicitation. To which purpose we shall observe five things :

First, he ought to have a good natural Wit.

Secondly, that Wit must be refined by Education.

Thirdly, that Education must be perfected by Learning and Experience.

Fourthly, and lest Learning should too much elate him, it must be balanced by discretion. And,

Fifthly, to manifest all these former parts, it is requisite that he have a voluble and free tongue to utter and declare his conceits.

First, he ought to have a good natural wit, not too slow nor too quick. Not to slow, for men of slow capacity are for such weighty undertakings altogether unfit; their conceit being so tough, that neither the rules of learning, nor the precepts of wisdom, nor habit of vertue can make any impression. *Tardis mentibus virtus non committitur*, saith Cicero: for their dullness is an enemy to wisdom, and their slowness hurtful to the moments of occasion.

Some I have heard of, I confess, that in their choice of one to manage their affairs, have elected a man of this disposition; surely *contemptu magis quam gratia*;

tia : for I see no ground to allow their opinion , since those ought to be preferred who are good , and know why they are so ; whereas these simple wits are easily both altered and deceived.

And as they should not herein be too slow, so neither should their wit be too pregnant and sharp, lest it become like a razor, whose edge the keener it is, the sooner it is rebated ; or like soft wood, which is ready to receive the impress of the Limner, but in regard of its warping is unable to keep it, and therefore is not fit for any Worthy portraicture. Men of this disposition are of more quick then sound conceipt, in all their actions unstayed and fickle : one while embracing an opinion , as seeming the best ; then again looking more nearly , and not able to answer the doubts which are ready to enter an open invention , fall to a strange kind of uncertainty. In their negotiating of business, they decree that of other mens proceedings, which in their own case they would do : and in this security are oftentimes so over-reached by their adversary, that they cannot return without great disadvantage and loss. commonly they follow rather subtiler then wise counsels ; which for the most part do not speed, being only *prima specie laeta*, things of appearance, & no substance; *tractu dura* , for by how much the subtilty is greater, by so much it is necessary that the handling be very curious and exact, else they sort to no end; being like a Clock, which most artificially composed, is soonest disordered and put out of frame : and then they are *Eventu tristia*, so odious and unfavoured, that they are alwayes waited on by a sinister success. And therefore wit may in this case be said to resemble the Sun, which so long as his beams wander abroad , and disperse according to their natural liberty, doth gently warm and cheer the earth; but when they are by a violent reduction contracted and drawn together in the hollow of a burning-

burning-glass, consumeth that only should be refreshed. In brief then, such should and must be the wit that is fit to negotiate affairs, whose over-pregnancy must be tempered with a measure of solidity; by which means becoming *admodum otiosus similis*, they dispatch their business with much moderation. And with such a wit our Solicitor being endued, will even in the execution perceive, and upon present occasion determine and take counsel: as Fencers do in the Lists, whom the countenance of his adversary, the bending of his body, and the moving of his hands, doth admonish how to proportion the distance, how to offend where is least ward, and how to defend where there is likely to be made the strongest assault.

2. But it is not enough for our Solicitor to have such a wit, unless the same be further refined by education. Now education (as the Philosopher speaks) is a good and continual meaning of the mind: this being indeed the principal foundation of all humane happiness, and as the formal cause of our life; so this is the efficient both of a clear understanding, & so consequently of a good life: without which, men are burthens and eye-sores to the Common-weal; nothing but a cypher, *Et fruges consumere nati*. Now Education may be achieved as well by association as inculcation: for good company is like a wholesome Air: a man may profit much even by the changeable interview of a good man. This is a thing of very great consequence in young minds, according to that of the Poet, *Quo semel est imbuta recens servabit odorem---Testa diu---* They are apt to be seasoned either with good or bad resolutions, and to receive the impress of any custome, which their first company shall by the silent persuasions of their actions inpose upon them. So then, though company is a great matter, and will prevail much; yet evil customs may be deleted, at least altered or amended by

inculcation ; which must not be done with terms of affected indignation , but in a more moderate way, mixing reprehensions with fair perswasions, and laying before the eyes of their understanding the generous example of several persons : so by recording their tractable and officious dutifulness, to enflame them to imitate them and surpass them.

3. Having thus both by precept and example received the benefit of Education towards the refining of his natural wit , it is in the next place necessary that our Solicitor should be perfected by Learning. Now although Learning have a private and pleasing end in it self, as being the harbour where the free and untroubled consideration hath a delightful repose from the Sea of more unquiet thoughts ; yet is it but a serving quality , preparing the mind to a nobler end of well-doing : for knowledge or Learning teacheth not her own use, but as a necessary mean enableth us to good actions : and it ought to be measured by Vertue ; and if loved for any thing, it must be because it informeth us to do vertuously. It is an excellent Commendation that *Pliny* giveth to *Trajan* ; *Præstas quæcumq; tibi præcipiunt, tantumq; eas literas diligis, quantum ab illis probaris.* We must use the precepts of Learning as the Laws of our behaviour : we must remember that the glory and increase of Knowledge consists in the exercise of goodness ; and the masculine and active power of the mind must be joyned thereto , to make us perform good and great things. But as it is to be followed, so it is not to be embraced with too vehement fervencie : but let that saying of *Cato* be remembered ; “ That active minds “ cannot be with a more honest idleness , then the “ study of letters corrupted ; nor idleness by any “ greater or more dangerous policie find easie entertainment in a well-governed Commonweal.

This

This Learning will at length reach to lay hold on another most excellent branch of her self, which is, Experience and indeed it is the most entire part of Learning without which, the most absolute Scholars and learned men cannot attain to any degree of perfection in civil actions. For there is more of certainty in the principles of practice, then in the most necessary demonstrations or clearest discourses of reason. And these men that are intendants, (as our Solicitor ought to be) and practised in the Occurrents of Courts, are fitter for any active employment, and can with better easiness dispatch any business: *Quoniam enim habent oculum ab ipsa experientia, vident ipsum principium.* These become as it were trusty Oracles, on whose judgment a man may safely repose his whole fortunes: they are on earth, *instar præsiorum Numinum*; whose advice a man ought to take, before he engage himself in any action.

For the mean by which Wisdom enableth to foresee a success, and accordingly after due Consideration rule the present, is Conjecture; which by comparing things passed, presupposeth out of the same causes the same effects. Now in this obscure and incertain deliberation upon the future, our Solicitor being experienced, is like him, who having tryed a dangerous passage in his own person, and noted the by-turnings which might divert him into an errour, can in the darkest night with a secure and forward alacrity go the same; and overcoming all difficulties, arrive at the appointed place: whereas another, though furnished with the soundest directions, (yet never having proved it) quaketh at a very shadow; and having his spirits shut up in amazement, plainly hazardeth his person. Now the rules to perfect this experience in our Solicitor, are, to frequent the Courts of Justice, as Free-schools of civil learning; to endeavour

deavour to understand all Occurrences therein ; to confer thereof with men expert, real, of a deep insight, such as are not carried away with apparences, but *Can see day at a little hole*, (as the Proverb speaks) and make judgement out of matters themselves, and discern between truth and truths likeness, and know when covert designs are the foyles of more eminent intentions.

4. And now our Solicitor being thus forward toward perfection, lest he should be too much elated and puffed up, all those his foregoing parts must be balanced and kept even, by the unbyassed Rules of a sound judgement and solid discretion, which should be the balance in which he should weigh all his actions.

The first part hereof is Deliberation ; in which he must neither resolve with haste nor affection : the one not giving time enough to discuss those things which ought to be considered ; the other so occupying the mind that no thought can creep in, which doth not in all regards conform it self to give sufferance to that passion. He must promise himself nothing, before his Conceptions are by great presumptions assured of success : for the fervency of hope maketh men somewhat more retchlessly negligent ; insomuch that when they are disappointed, they are as impatiently grieved, as if they had fallen from an essential felicity. Like Novice-Merchants, who fore-counting great gains, and failing of their fresh expectation, are suddenly embarked in that irrecoverable mischief of Debt.

Another point of discretion which he ought to make use of, is, *Principiis obstare*, to provide at the beginning, and not linger till he be surprized both in his business and judgement ; and what he cannot compass at the first, it is best by timing and waiting to expect an opportunity : for often, things by time receive contrary revolutions, and conclude clean different from their appearance & likelihood. And although he may some-

times

times wait long, yet he must continue in action, and managing of the matter: so may new businesses arise out of the former, both by reason of the coherency & way that opens to one another. Herein must be observed that of *Cicero*; he must *non solum animis sed etiam oculis servire civium*: he must not think himself discharged except he accompany his actions with fair likelihoods. This, if it be not affected, sets a splendour, and gives a grace to our actions; teaching us to put a difference in persons, and with divers natures to treat diversly, applying to every mans humour.

Some are so incapable, that they make small things great, easie businesses impossible; and enterprize nothing which through their perverseness is not with difficulty accomplished: whose folly a man may compare to the unskilfulness of some Chirurgeons, who in stead of healing, fester a wound; and in stead of mitigation, make the torments more grievously dangerous: whereas expert ones do with gentle Lenitives redress the malady, before the Patient have any thorow sense or feeling of pain. So our Solicitor being thus guided by discretion, and having his spirit awaked to all circumstances, doth manage matters with a more delicate deportment; & by certain premised Preparatives, so disposeth the mind or the other agent, as it may be apt to receive any form which shall be imposed: using the same Consideration which good Players at Tennis have, who not to suffer a rest, do not only stand attentive to send it to their Companion, but with like heed provide to retake it, by accommodating their person, and expecting in the likeliest place: so he, to avoid all hindrances, doth not only suit his own words, but also gives favourable Constructions to the speeches of the other Agent, by dissembling the discontentments which might arise. In brief, some few other Rules for our Solicitors discretion, may be these:

these: He must avoid sudden changes; for that doth hold of violence; and *nullum violentum est diuturnum*. Again, he must settle more assurance in him that doth expect, then in him who hath received a benefice: for by Speeding in Suits, men become slack waiters; when hope of gaining will certainly keep them in due devotion. He must also be wisely diffident, and put on a judicial distrust: put on I say, because there is nothing less familiar and easie to honest men, then to suspect warily.

Having thus far trained him up in the way to perfection, and laid him down some few Rules to walk by, come we now in the last place, to shew how,

5. He shall manifest the same, and comment on his actions. To which purpose it is necessary that he have a free and voluble tongue, to utter and declare his conceits: in the use thereof, it is necessary that he avoid affectation, and that his speech be honest; comely, significant, expressive, proper, and void of all fear, and effeminate terms, without any dissimulation: for doubtful and ambiguous words, with particular reserves, argue a base mind and imbecility of spirit. He must not always shew himself a Scholar, but sparingly, and when fit occasion requires it: for sometimes to use conceits of Learning as embroideries, is requisite; but then it should be in a hidden manner, like as apparel doth represent the proportion, but not the barrenness of our members: but generally it is the greatest wisdom rather to attend others, then to be an eloquent Merchant of self conceits: for men expert and practised, can out of another mans words deduce great consequences, and take light of matters of great importance.

With these five Qualities so rectified as aforesaid, our Solicitor being rightly adorned, he shall be able
with

with credit to run thorow all the hazards and difficulties which in his practice he shall or may meet with.

Object. But here I meet with an *Objection*, viz. *What need is there of all this coyl and ado about a Solicitor? Do not all men know there be many Solicitors who have much practice and great dealing, that have never been bred to any of those things? simple fellows, who had not wit or honesty enough to learn a mean Trade; and in truth cannot write their own Names, and yet are accounted brave fellows in that business?*

Ans. To this, I answer: True it is, and to the shame both of the Law and the Professors thereof be it spoken, that will suffer such fellows by their ignorance and deceits to abuse so many as they daily do. 'Tis by the means of these cheating devouring Caterpillars, that the honourable Professors of the Law are so often cryed out upon for bribing and taking excessive fees; and it will be no wonder hereafter if *Iggornamus* be revived, when such a company of simple Sots shall be admitted or suffered to usurp (and therein abuse and make vile) the worthy name of a Lawyer. It is an abuse well worthy to be inspected by the discerning eyes of the learned Judges of the Land, and some severe course to be taken for the remedy thereof; whereof under favour and permission, I shall make bold only of one small hint, as follows.

Whereas now every idle fellow, whose prodigality and ill husbandry hath forced him out of his Trade or employment, takes upon him to be a Solicitor; and thereby not only by their multitudes and swarming in every corner, they who have been at great labour, expence and study, either can have no practice at all, or at best so little that is not worthy their looking after; and not only so, but the Clyent also receives a double damage; first, in the tedious delay, and sometimes the loss of his cause; and then in the vast

vast expence of his money, whereof he can have no account: for remedy whereof, it would be well that it should be declared, That no man should dare to undertake to be a Solicitor, either at Common Law or in Equity, unless he had for five years before at least been of some of the Inns of Court, or Inns of Chancery, and shall be legally admitted and entred in a Roll for that purpose, to be kept in the Petty-bag-Office in Chancery, under a certain pain and punishment; and that no Clyent do entertain any other than one so qualified: by which means, if any abuse be offered, the Court may take a Cognizance thereof, and punish the same. This shall suffice to have spoken in answer to that Objection: I shall now proceed, and shew the duty of our Solicitor, both in what he ought to do, and what he ought to know. But for that, I shall refer you to the next and following Chapters.

Hitherto of the Qualifications of a Solicitor, now of his Practice.

CHAP. III.

What our Solicitor ought to know, the better to enable him in his Practice.

AS we suppose our Solicitor to be chiefly if not wholly concerned in matters of Equity; so we shall to that purpose inform him, that he must of necessity be knowing in Courts of Equity: whereof the Chancery in this Kingdom being indeed the chief and only lawfull Court, if so be that he be truly instructed therein, it will be sufficient to guide him in all the rest. Therefore

In this Court the Lord Chancellor of England is the

the chief Judge; who in case of sickness, infirmity, or other extraordinary business, may depute one of the Judges to sit in his place at any time: but in the Terms, the Master of the Rolls is equal with him, and sitteth at *Westminster-Hall* in the mornings; and three daies in every week, during the continuance of the Terms, sitteth alone, assisted by two Masters of the Chancery, in the Chapel of the Rolls: and these in their several places, in manner aforesaid, do make Orders and Decrees.

The subordinate Officers of this Court are many.

The twelve Masters in ordinary, which are Assistants both to the Lord Chancellor and Master of the Rolls, as aforesaid, and sit with them, and to whom References are made, and before whom Deeds and Recognizances are acknowledged, and Affidavits made. This formerly might have been done before any Master at his own house, by the option of the party concerned: but now, by an Act of Parliament made in the thirteenth year of King *Charles* the Second's reign, there is a general Office erected for the said Masters, wherein there are certain hours every day, at least two Masters attending to dispatch the said business; which may not be done otherwise, or other where, but by special Order.

The Register of the Court, who hath divers under him that sit in the Court, and take notice of all Orders and Decrees made in Court, either before the Chancellor or Master of the Rolls; and accordingly afterwards, at the request of the party concerned, or his Solicitor, draw up those Orders and Decrees: which are afterwards to be entered in the said Office, in a Book of Entries to that purpose kept; and being so entered, they must be returned to the Register; who having set his hand thereto, the same thenceforth

are authentick, and may not be altered without Special order from the Court. In this Office also are filed all Reports from the Masters, and all exceptions taken to any of the same Reports.

The six Clerks, in whose Office all proceedings upon Bill and Answer, unto the very Decree, yea and after Decree, are acted; and from whom likewise issue some Patents, as for pardon of a man for Chance-medley, Patents for Embassadors, Commissions for Bankrupts: and these are done by their sitting Clerks, of which each Six Clerk keeps a set number.

The Curfitors of the Court, who were incorporated by Queen *Elizabeth*, by the name of the Twenty four Curfitors; amongst whom all the business that lies in the several Shires is severally distributed. These make all Original Writs in the Chancery, which are returnable in the Common Pleas; and all Writs of Entry and Covenants.

The Masters of the *Subpoena*-Office, the Clerk of the Affidavits, where all Affidavits are to be filed which you would use in Court. Heretofore they used them in Court, and after filed them; but now they must be first filed, and a Copy thereof taken to be read in Court, or else they signifie nothing.

The Clerks of the Petty-bag, who have many Clerks under them; and these Clerks have much variety of business that comes through their hands, and requires very much knowledge and experience for the managing thereof: for this Office hath the making out of all Writs of Summons to the Parliament. To this Office are all Offices that are found *post mortem* brought to be filed. In this Office are all Pleadings of the Chancery concerning the validity of any Patent, or other thing whatsoever that passeth the Great Seal. And these Pleadings are all in Latine, although most of the rest of their Proceeds

were

were in English. If any question arise about the acknowledgement of any private Deed between Subjects, which is acknowledged in Chancery before the Lord Chancellor or Master of the Rolls, or any of the Masters in Chancery; and all Statutes and Recognizances taken before any Officers to that purpose deputed, are transmitted hither, and here prosecuted. Here also are all suits for or against any person privileged in the Court. And lastly, it is a hand whereby to transmit divers things from the riding Clerk and the Inrolment-Office, to the Chapel of the Rolls.

The Examiners are Officers of this Court, who take the Depositions of Witnesses, and are to examine them, and to make out Copies of the Depositions.

There are likewise Clerks of the Rolls, who sit constantly in the Rolls to make searches for Deeds, Offices, &c. and to make out Copies thereof.

The Usher of the Court hath the receiving and custody of all moneys ordered to be deposited in Court, and maketh Certificates thereof, and payeth the same back again by order of the Court, and not otherwise.

The Serjeant at Arms, who carryeth the Mace before the Lord Chancellor; to him all persons standing in high contempt are brought up by his Substitutes as Prisoners.

The Warden of the Fleet likewise is bound to attend this Court, to receive such Prisoners as stand committed by the Court to him.

The Court consists of a double power, ordinary and extraordinary: the ordinary power is (as in the cases of *Scire facias*) to repeal Patents in case of Travesty, Endowment of a Woman, and the like: and here in the Court is limited and confined to the Rules used in the Common Law. The other is extraordinary and

unlimited, (as in cases of Equity) wherein relief is to be had by a Suit here by way of Bill and Answer.

By the power of this Court are issued forth Commissions for charitable Uses, Bankrupts and Sewers. In some cases Commissions have been here granted to examine Wastes, to set out meet waies for Passages, to prove a Child legitimate, to prove Customs, and to examine Witnesses *in perpetuam rei memoriam*.

It proceeds by way of Bill and Answer, and gives relief in many cases besides, and beyond the Rules of the Common Law : whereof practice will shew many experiments. And to this purpose it is necessary for our Solicitor to read *Tothills* and *Caryes* Reports.

CHAP. IV.

Of the whole duty of our Solicitor in his Practice.

HAVING in the former Chapter gone through the most necessary things which our Solicitor ought to know barely, it remains now we should come to the practick part of it ; wherein we shall set down plain and easie Directions for the greatest part of their manner of proceedings, wherein for methods sake we will begin with their first Process called a *Subpœna*.

This Writ of *Subpœna* is the leading Process of this Court, as to the procedure by Bill and Answer ; and is a close Writ, and doth require the Defendants appearance in Court at a certain day, and under a certain pain therein limited, to make answer to the complaint of the Plaintiff, which is indeed the Bill : which in former times was wont to be put in, before the

Subpœna

Subpœna sued forth ; but now of long time hath been otherwise used. This first *Subpœna* is called *Subpœna ad respondendum* ; and is distinguished by that name, because there are several other *Subpœna*'s in order to further proceeding ; as, a *Subpœna* for Costs, a *Subpœna* to make a better answer, a *Subpœna* to rejoyn, a *Subpœna* for Witnesses to testify, a *Subpœna* to hear Judgement, and a *Subpœna ducens tecum*, for Writings, Evidences, &c. Touching the *Subpœna* to answer, you must be very carefull that there be no mistake in the body of the Writ ; for that may prejudice the Plaintiff ; and the Defendant may take advantage thereof, if he find it : but if there be a mistake only in the Label, no advantage can be taken by it. In none of these Writs may there at any time be put more than three names.

This Writ may be returnable two waies, either upon the common daies of Return, as *die Jovis proxime post tres Michaelis*, or else upon any day certain, which now is the most usual course. And it is to be served before the Return thereof be past : and this is to be done either by the delivery of the Writ it self under Seal to the Defendant in person, or by shewing to him the Writ under Seal, delivering him a Note or Label of the day of his appearance. And this last course is most usual, because oftentimes there are more persons than one in the *Subpœna*, and then the body of the Writ is reserved to be left with the last. Neither indeed is it at all required to serve this Writ personally : for it hath often been declared a good service, when the Writ or Label thereof hath only been left at the Defendants dwelling-house, with some relating to him, and Affidavit thereof made ; otherwise no contempt can be grounded thereon. And where a Defendant doth hide himself, or refuse to be spoken with, it hath been allowed to be a good service, to

leave the Writ hanging upon the door of the house, or to put it into the house under the door, or in at the window of the house of his usual Residence. Also it is taken for a good service, although it be served on the same day it is returnable, if it be served before Noon of that day, or before the rising of the Court. Where a *Subpœna* is had against husband and wife, and the husband alone is served, and hath notice that it is against him and his wife; this is a good service to both; and for want of an appearance, an Attachment may be had either against the wife only, or both. The *Subpœna* being served as aforesaid, the Bill must be put in in due time or else the Defendant will have costs: to prevent which, you must take notice what time is prefixed for the exhibiting the Bill after the return of the *Subpœna*; which is thus: If the *Subpœna* be returnable upon a general Return-day, as *Crastino*, *Ostabis*, *Tres*, *Mense*, &c. *post*, &c. then hath the Plaintiff time to put in his Bill untill the second day before Noon next following, being the fourth day following every of the said Returns; and you must account the Return-day, and the fourth day after it, for two of the said four daies. But where the *Subpœna* is returnable upon a certain day of the month, then the Bill must be filed the second day after before Dinner; and if the Bill be not filed (the *Subpœna* being returnable on a certain day of any month) then the Defendants appearance being entred, his Clerk in Court may prefer costs the next day after: and if the Bill come not in the next day after costs so preferred before Noon, or presently after Dinner, then the Defendant is discharged with such costs as a Master of the Court shall tax him. But where the *Subpœna* is returnable on a Return-day, the next day after the fourth day is costs day: and if the Bill come not in the next day after the costs day, as aforesaid, (the costs being pre-

preferred the day before) then the Defendant is discharged from attendance, as aforesaid, with his costs.

Where the costs are not voluntarily paid for want of a Bill, by the Plaintiff or his Clerk, to the Defendant or his Clerk, in such case the Defendant may have a *Subpœna* for the said costs, which must be personally served on the Plaintiff: and if thereupon the costs be not yet paid, then the Defendant may (upon Affidavit made and filed that the said *Subpœna* was served) have an Attachment directed to the Sheriff of the County where the Complainant lives, to attach him for the said costs: and if the Sheriff make return upon the Attachment, that the Complainant cannot be found, then a Proclamation may be sued out against him; and that also being returned with a *Non est inventus*, then a Commission of Rebellion may be taken forth.

On the other side, if the Plaintiff do in due time file his Bill, and the Defendant appeareth not the next day after the costs day, then the Complainant, upon Oath made that the Defendant was served with the *Subpœna*, may have an Attachment; and if the Sheriff return *non est inventus* thereon, he may sue out a Proclamation and Commission of Rebellion in manner aforesaid, successively one after another.

The Affidavit that must be made of the service of the *Subpœna*, must be made according as the manner of the service was: for if the Affidavit made do not prove a good service, as before is set forth, then no attachment can be had upon it: for there can be no attachment regularly made out against the Defendant for not appearing, until there be a certain and positive Oath made of the time, place and manner of serving the *Subpœna*, inserting therein the return of the Writ.

And where any person served with a *Subpœna* doth
injury

injury or wrong either by word or deed to the party who acted in the service of it, or doth set at nought or contemn the Writ it self, or the Authority of the Court from whence it issues, upon Oath made thereof, and motion thereupon, such person will be committed to the Fleet.

Where there is appearance made by the Defendant within the time limited, and the Bill also filed, in such case, upon a Rule given by the Plaintiffs Clerk to the Defendants Clerk, and the same entred into the Register, the Defendant is to answer to the Bill by the same day seven-night then next to come: which if he fail to do, and do not otherwise in that time satisfy the Court, by shewing sufficient cause of such his delay, then the Complainants Clerk may make out an Attachment against him.

Now this Writ of Attachment cannot be duly had, unless the *Subpoena* before going were duly obtained: for if the *Subpoena* be counterfeit, or if true, not legally served, the Attachment is irregular; and the Defendant arrested by it, upon disclosing the matter to the Court, will be discharged thereof: whereas an Attachment duly gotten, may not be discharged till the Defendant have first paid 25 s. costs; and every succeeding Process, double so much; and upon account thereof, he is discharged of course.

The husband appeared, and the wife not: an Attachment was granted against both. *Abells Case*, 19 *Eliz. Carye Rep.* 65.

So he alone appeared, and put in a Demurrer in both their names, without excusing her: Attachment was granted against both *Spicers Case*, *Caryes Rep.* 39.

The Defendant made Oath he could not answer without sight of Evidences, and had time given him, and afterwards put in a Demurrer: Attachment went out against him, *Pasch. 21 Eliz. Farmers Case*.

Where

Where the Defendant is served with a *Subpoena*, and afterwards for not appearing an Attachment issue against him, if he do not appear thereon, but suffer a *non est iudicatus* to be returned, there will go out Proclamation of Rebellion against him. Yet note, that the Process of Contempt, and all Attachments in Process, are to be discharged upon the Defendants payment of the ordinary costs of the Court to the Plaintiffs Clerk, or his tender thereof to the same, and his refusal to take it, and filing of the Plea, Answer or Demurrer, as the case merits, without any motion: and if the Plaintiff do prosecute the Contempt afterwards, the Defendant will be discharged with costs. Where an Attachment is had, if the Sheriff do not make his return, a day will be given; and if he do not by that time, the Court will set an Amerciament upon him.

Where any party is attached, and afterward proclaimed, and he comes not in, but stands further out in contempt, in such case a Commission of Rebellion may be issued forth against him, for the apprehending of him, and bringing him into the Fleet (the proper Prison of this Court,) and this Commission of Rebellion is sometimes directed to the Sheriff, and sometimes to private persons; as in the Case of *Cage and Etrington. Trin. 38 Jacob. Tothil 37*. This course is likewise taken against those that perform not obedience to Orders or Decrees to pay costs, or the like.

Where private persons are made Commissioners, and do take the person in contempt; if they suffer him to escape, the Solicitor may by motion get them committed till they bring him in; as in the Case of *Sachvovrel* against *Sachvovrel, Hill. Term. 18 Jacob. Tothil. 38*.

If any person rescue one taken by a Commission of Rebellion, the Rescuer may be gotten to be committed. And if the Commissioners upon such a Commission

let

let the party in contempt go where he list, whereby he make an escape, they may be procured to be committed to the Fleet till they pay the debt. See *Nelsons Case* against *Yelverton* in *Trin.* 18 *Jacob. Tothil.* 39.

If a party appears not, but stands further out in contempt a Serjeant at Arms may be sent out to take him : and if he cannot, either by reason of his hiding or resistance, or having taken him, he escape, and so persist higher in his contempt ; in such case a Sequestration may be obtained upon a motion, and Affidavit thereof, of his Land : and if the suit be for Land a Sequestration and Injunction for the profits of the Land, to be delivered to the Plaintiff by the Sheriff or other Commissioners for that purpose : as in the Case of *Boles* against *Walleg* and his wife. *Caryes Rep.* 38, 58, 105, 109.

In all these Cases it behoves a good Solicitor to be careful, watchful and diligent, that he may not slip any opportunity that may work for the advantage, benefit and behoof of his Clyent and his Cause.

SECT. 2.

THe next part of our Solicitors practice, is to be skilled in Bills and Answers, and the several proceedings thereupon : wherein he must observe, that the Plaintiffs Bill is in effect the same that the Declaration after an Appearance had, is either in the Kings Bench or Common Pleas, and laies down the cause of his Complaint in Chancery, being usually such as is exempt from remedy at Common Law; and therefore they commonly insert in the Bill these words, *That the Plaintiff hath no remedy at Law.* And this Bill by continuance of such practice, may be put in after the *Subpoena* is both taken out and served, so as it come in

in within the time before limited in the former Section, to prevent costs.

This Bill in Chancery, and all subsequent Pleadings and Proceedings upon it, must be succinct and short, and not stufte with repetitions of Deeds, Writings or Records, (*in laec verba*) but the effects and substance of so much of them only as it is pertinent and material to set down, and that in brief terms, without long and needless traverses of things not traversable, and without tautologies and impertinencies. Neither must it contain any matter either criminal or scandalous against the Defendant or any other; and if it do, the Defendant may refuse to answer it, and the Plaintiff and his Counsel (whose hand is to it) may be punished for it; and any other party grieved may recover costs against such Counsel.

Where any Bill contains matter not proper for the Court to give relief in, the Bill may be gotten dismissed: and so likewise will it be, if there want Counsels hand to the Bill, or if the Counsels hand be counterfeited or disallowed.

To such a Bill rightly fitted and filed, the Defendant is to make answer; wherein many times he makes much delay: but in all cases of delay, he must upon Oath satisfy the Court of the cause of such his delay, which may be in several respects: as,

First, where the matter contained in the Bill is such, as to which he cannot give an answer direct, without conference had with some other person in the Bill named, or to whom the Bill refers.

Secondly, where the Bill chargeth the Defendant with the having of Evidences or Writings, or Goods or Chattels of the Complainants, to make discovery what they are: in such case the Evidences or Writings, and Goods, being in the Countrey, and he in *Lo do*, he may make Oath he cannot answer perfectly

to the Plaintiff's Bill without sight and perusal of the Goods, Evidences or Writings which he hath in the Countrey. Upon which Oath so made, the answer will be suspended till the first day of the next Term: but in these cases, the place in the Countrey where the parties live, Goods, Evidences or Writings lye, must be above twenty miles from *London*: for if it be neerer, he must answer in eight daies after appearance, unless further time be given by order.

There may also be Oath made by another person, either the Solicitor, his Servant, or Neighbour to the Defendant, that he is sick, and cannot travel without danger of life: and upon such an Oath, a *De-dimus Potestatem* (if the Plaintiff will not consent to it) upon a motion or Petition, will be allowed to the Defendant. But heed must be taken that the Order whereby it was granted, must be carefully entred in the Registers Office; and the Affidavit upon which the Order is grounded, must be filed in the Affidavit-Office. Where the Defendant doth not appear, or that after he hath made his appearance, he doth not answer within the time limited him, nor sheweth any cause for the same: in such case, an Attachment is awarded against him; which must be entred in the House-book of the Six Clerks Office, and likewise in the Register-Book, expressing the cause of issuing the Attachment.

Where there is no day given by Rule to the Defendant to answer, in such case the Defendant is at liberty to answer at any time during the Term: and where the Defendant makes default within that time to answer, then an Attachment may be sued forth against him of course, and the same with the cause thereof must be entred, as before is mentioned in the last Paragraph.

Where the *Sabbana* is made returnable so neer
the

the end of the Term, that there cannot be a day given to the Defendant to answer; in such case the Defendant must at his peril answer by the same day seven-night next following the day of his appearance, although it be out of Term: for the Chancery is said to be alwaies open. But where the *Subpœna* is returnable on the last Return-day of the Term, then the Defendant is at liberty to appear the first Return of the Term following. But if the *Subpœna* be returnable upon a day certain, although the day be the last day of the Term, yet the Defendant is bound to appear and answer by that day seven-night next following the said appearance.

In all Cases where the Defendant makes Oath that he cannot answer without sight of Writings, Evidences or Goods, as aforesaid, or conference with some other person, or that he have a *Dedimus Potestatem*, and Commission to take his answer in the Countrey; the Defendant will at his peril procure his Answer to be put in before the day after the first costs day of the next Term following, unless it be in *Trinity-Term*; for there it may be put in the second day after the second Return, or otherwise the Plaintiffs Clerk may upon his default make out an Attachment against him for not answering in time.

Where the Defendant hath a *Dedimus* granted him; if there be cause of Plea or Demurrer found, then the Defendant ought to move or petition the Court to have a special *Dedimus Potestatem* by order to answer, plead or demur; for the Commissioners upon an ordinary *Dedimus* have power to take and return no other things than answer only.

Where the Defendant doth demur, or put in any just Plea that he hath to the disability of the person of the Plaintiff, or to the Jurisdiction of the Court, under

under the hand of learned Counsel, it will be received and filed, although the Defendant do not deliver the same in person, or by commission. And if he do not put in his Demurrer or Plea into the Paper of Pleas and Demurrers in the Registers-office appointed for that purpose, within eight daies after the same is put into Court, that so it may be argued before the Lord Chancellor or his Deputy, as it shall fall in course; the same being so omitted to be done, the Plea or Demurrer is over-ruled of course, and the Plaintiff may take forth a *Subpoena* to inforce the Defendant to make better answer, and another for costs for the said over-ruling.

Where a man exhibits his Bill in Chancery, and dyes *pendente lite*, whoever hath the interest in the thing complained for, whether Heir, Executor or Administrator, they may put in a Bill of Revivor against the Defendant or in case the Defendant dye, the Plaintiff may exhibite his Bill of Revivor against the Heirs, Executors or Administrators of the Defendant.

Where a Bill is exhibited against a man and his wife, and the matter contained in the Bill wholly concerns the wife, and they both answer the Bill, and after answer the husband dyes; in this case a Bill of Revivor must be brought by the Complainant against the woman, if he intend to proceed in that suit: and the reason is, for that the woman shall not be constrained to abide by that answer which she, together with her husband, or solely as wife unto the man, hath formerly made to the Complainant, for that she was at that time under coverture. And in case she survives her husband, and continues possessed or seized of the thing in controversie in *statu quo*, she may as she shall think fit, make a new answer, and shall not be bound up or concluded by that answer which she made during coverture, or solely as wife to the man: and yet if she thinks

thinks fit, she may stand to that former answer of hers, and proceed accordingly in that suit.

Where a Plaintiff exhibits his Bill against a *Feme sole*, and she appearing makes answer, and afterwards marrying becomes under coverture *pendente lite*: in this case the Plaintiff may proceed against her and her husband, and shall not need any Bill of Revivor; and her husband shall be bound by that answer which she made while a *Feme sole*, for that she shall not advantage her self by her own act.

Whereas on the other side, if a *Feme sole* exhibit her Bill, and the Defendant answer thereunto, and afterwards she intermarrieth; here there can be no further proceeds by the husband and wife without a Bill of Revivor, because she hath abated her suit by her own act of marriage, of which the Defendant may take his best advantage.

Where the man and the wife exhibits a Bill whereunto the Defendant answereth, afterwards the man dieth, the woman may be at her choice whether she will exhibit a new Bill, or proceed upon the Bill by her Husband and her self formerly exhibited.

Where there are two seized of Joynt-estates, or when they are Executors of one Will, or Obligees or Obligors, and they prefer a Bill in Chancery to which the Defendant makes answer, and after one of them dies; here the survivor may proceed in his suit against the Defendant, and shall need no Bill of Revivor.

Note, That the Bill of Revivor must pursue the first Bill exhibited: for where there is any variance between them, the Defendant may be discharged, and the Bill will be dissolved.

Where there are Administrators *durante minore etate* of an Infant, Executors in the nature of a Guardian, and they sue on the Infants behalf, and the suit depend-

ing the Infant comes to age, here it seems there needs no Bill of Revivor.

Where the Complainant hath exhibited his Bill of Revivor, and hath procured thereupon a *Subpoena* to be served, he will be upon this in the same case as the Predecessor was when the Bill accrued, unless some good cause to the contrary (as, that he is not Heir, Executor, nor hath the like interest, &c.) can by the Defendants answer be shewed.

Where a man doth willingly refuse to answer, and doth stand out till process of contempt, the Court will take the matter of the Bill *pro confesso*, and decree it accordingly. See *Tothil*. 69.

If the answer be good to common intent, the Plaintiff must reply, and prove the matter if he can, and not insist upon insufficiency of the answer.

No exception can be taken to an Answer after a Replication put in; for it is then admitted to be good: but before Replication it may be excepted against. But where it is excepted against, the causes must be shewn in writing, and delivered into the Plaintiffs Clerk the same Term the Answer comes in, or within eight days after: and if he mend it in eight days, he shall pay no costs; otherwise he must.

Where an Answer is excepted against as insufficient, it is usually referred to a Master to consider of the exceptions, and he to certify whether it be insufficient, or not: if he certify it insufficient, then the Plaintiff may take out Process for costs, and the Defendants second Answer is not to be received till he hath paid the costs.

The first Answer being returned insufficient, the Defendant must pay forty shillings for single costs: if it be an Answer that came in by Commission and insufficient, he must pay fifty shillings costs.

The second insufficient Answer pays three pounds,
the

the third five pounds : and you may have a *Subpoena* both for costs, and for a better Answer.

In all cases of exceptions, the insufficiency appearing in the same exceptions is the point to be insisted on, and no new exceptions may be moved. But if the Master upon reference finds, the Answer to be sufficient, and accordingly certifies it, there the Plaintiff must pay forty shillings costs.

If the exceptions to an Answer be put in after the Term, there shall be time given to answer them untill the fourth day of the next Term, unless the Court hasten it.

If an Answer come in by Commission, and be not good, no new Commission will be admitted but upon Oath of inability of the person, and his payment of fifty shillings costs, as before.

Where a Cause goes to hearing upon Bill and Answer, the same must be admitted to be true in all points; and no other Evidence is to be admitted but what is matter of record, to which the Answer doth refer, and which is provable by the Record it self. *Caryes Rep.* 78, 39.

SECT. III.

THe third thing necessary for a perfect Solicitor, is, to understand clearly the matter of Pleas and Demurrers : wherein he must observe, first, that a Demurrer is always where there is matter defective contained in the Bill, or where is forraign matter.

The Plea of forraign matter may be of two sorts : either where it is to the Jurisdiction of the Court, or to the disability of the person ; as, where the Plaintiff is Outlawed or Excommunicate, or where there is in this or any other Court a Bill or Suit depending for the same cause, or it may be that the cause hath

been formally dismissed in this Court, or the like ; or if the matter of it appear upon record , it may be put in without Oath, otherwise not. In case it be a Demurrer , it must express the cause of the Demurrer ; yet other causes may be insisted on at the time of arguing thereof in Court. When if the Demurrer be over-ruled, the Defendant shall pay five Marks costs ; and where it is allowed , the Defendant shall have no costs.

If one plead a Plea that is insufficient, and so over-ruled to be , as where it is an Outlawry pleaded , and it is not a good Plea, he must pay five Marks costs.

An Outlawry is not to be pleaded, unless you plead the Record *Sub pede Sigill.* Also, a Plea of Outlawry, if it be in a suit for the same thing for which a man sueth to be relieved in Chancery , is not to be allowed ; but otherwise it is allowed, and will be in force to hinder all the Plaintiffs proceedings till it be reversed. But when it is reversed , the Plaintiff may upon payment of twenty shillings costs , upon a new *Subpoena* served, put the Defendant to answer the same Bill.

Where the Plaintiff conceives the Plea for matter or manner naught , he may put it to the judgement of the Court.

Where a man pleads a former suit , he need not set it down with the Register , but it shall be referred to a Master to certify, (which must be done within a month upon the Plaintiffs procurement) and if the Master certify against the Plaintiff , he must pay five shillings costs : if there be no report within a month of filing the Plea , the Bill will be dismissed of course, with seven Nobles costs.

If the Demurrer to any Bill be put in upon any slip or mistake in the Bill , the Plaintiff of course laying down to the Defendants Clerk twenty shillings for costs , may amend his Bill within eight days after the

De-

Demurrer put in, but not after that time.

If the Demurrer be admitted by the Plaintiff to be good *within eight dayes* after the filing of it, and he doth pay the Defendants Clerk in Court forty shillings costs, then the Defendant shall not need to attend his Demurrer, but the Bill shall stand dismissed of course without motion, unless both sides agree to the amendment of the same: yet such dismissal is to be no bar to a new Bill to be exhibited by the Plaintiff.

Where the Plaintiff findes sufficient cause for an Order upon the Answer, he may go to hearing thereupon without further proof, (of which there ought to be very good advice taken) in which case, he must get his Clerk to present the same in course to be set down to be heard upon Bill and Answer. But in case the Court shall not find grounds to make a Decree or final Order, the Bill shall be dismissed with costs, or the Plaintiff admitted to reply, if he deserve it, first paying down five pounds costs within four dayes after such hearing; else the dismissal to stand, and the conclusion of the Order upon hearing is to be penned by the Register accordingly; and then such dismissal shall be a good Plea in bar of any new Bill for the same matter.

Where a Plaintiff proceeds so far as to proof, and upon the hearing it clearly appears that the Plaintiff might have had full relief upon Bill and Answer, albeit he be relieved in the same cause, yet he shall pay costs. See more fully these things in the Collection of Orders, and Caryes Reports, 39, 87.

SECT. IV.

Other things in practice necessary to be understood by our Solicitor, are, Replications, Rejoinders, and Sur-rejoinders. Now a Replication is

The Plaintiffs speech in way of Reply to the Defendants Answer : the Rejoynder is the Defendants Answer to the Plaintiffs Replication ; and the Sur-rejoynder is the second defence to the Plaintiffs Action, opposite to the Defendants Rejoynder.

1. The Replication must be short, relating to the substance of the Bill ; and it must avoid superfluous and criminous matter.

2. The Replication must affirm and pursue the Bill, and confess and avoid or traverse, or deny the Answer.

3. The Rejoynder must pursue and confirm the Answer, and must sufficiently confess or avoid, traverse, or deny any material part of the Replication.

4. No new matter must be put into the Replication ; and so much matter only is necessary to be there, as will avoid the matter of the Answer.

5. If upon the Answer there be so much confessed that the Plaintiff need not to draw into pleading, and prove all the points, he must see to it, and reply, and go to proof only in those particulars in question, and necessary to be proved.

6. When the Defendant doth demur or disclaim to any Bill exhibited against him, the Plaintiff cannot reply ; and if the Defendant in those cases be served with a *Subpoena ad rejunderum*, having before made no Answer, but a Demurrer or Disclaimer, as aforesaid, he shall have costs for his unjust vexation.

Where the case is such, that the parties cannot come to issue by reason of some new matter disclosed in the Defendants Rejoynder that requires to be answered unto, the Plaintiff may sur-rejoyn to the Rejoynder, and the Defendant likewise to the Sur rejoynder, if there be cause.

As for the time of the Replication to be put in after the Answer, you are to observe that the Plaintiff hath

time

time for all that Term, and all the next Term; and untill the beginning of the third Term, to put in his Replication. The next Term after the Answer is put in, the Defendant may give the Plaintiff rule to reply; and if such rule be given, and the Plaintiff reply not, costs will be given against him: but if there be no rule given, and the Plaintiff doth not reply the second Term after the Term the Answer is put in, the Bill will be dismissed with costs of course. But in case the Plaintiff doth reply, and that the Replication be in Court, the Defendant can have no costs.

Where the Complainant hath replied, the Defendant may if he will rejoyn *Gratis*, and force the Complainant to joyn in Commission.

Where the Plaintiff intends to go to Commission, he must serve the Defendant with a *Subpœna ad rejun- gendum*, before he can have Commission to examine Witnesses; and upon return of that *Subpœna*, and Oath made of the serving it, the Plaintiff may by entering Rules force the Defendant to rejoyn and joyn in Commission, or go on to the examining Witnesses without him: for having given him seven dayes to rejoyn, if within that time he refuse to do it, he ought not to be admitted to do it afterwards.

Where the Defendant is served with a *Subpœna ad rejun- gendum*, and doth not upon the Plaintiffs Clerks demand to the Defendants Clerk deliver Commissioners Names by the end of the Term wherein the *Sub- pœna* is returnable, there the Plaintiff may either with- out motion or petition give Names, and take a Com- mission *ex parte*. See *Caryes Rep.* 111. And this hath brought you to another branch of your Solicitors duty, *viz.* the manner of joyning in Commission, and executing thereof.

SECT. V.

IN the joyning in Commission therefore to examine Witnesses, the Complainant, according to daily practice, first gives four Names, and then the Defendant gives four Names: now the Plaintiff or his Solicitor strikes out two of the Defendants Names, and the Defendant or his Solicitor strikes out two of the Plaintiffs Names; and the other four, being on each side two, remain the Commissioners. This being done, and the Commission ready, the Plaintiff is to have the carriage thereof; and he or his Commissioners must give therein in person or by Note left in writing at the place of the usual abode of the other party, fourteen days notice to him of the time and place of executing the Commission: & if there be default then made by the Plaintiff or his Commissioners in the execution thereof, he must pay the Defendant such costs as he upon his Oath shall make appear he was put to in the attending the said Commission; and the Plaintiff must renew the Commission at his own charge, and the Defendant shall have the carriage of it: And so on the other side shall the Plaintiff have, if the Defendant have the carriage of the Commission, and it be lost by default of his side. But where it becomes void by an error of the Clerk in making of it, the costs shall be born by him, and that side for whom it was taken out.

Where the Defendant hath the carriage of the Commission, he must give notice to the Plaintiff, as is before directed: and if such notice be not given, either all the examinations will be quashed, or otherwise the Court will grant to the other side a Commission *ex parte*.

Where there hath been Publication, there no
Com-

Commission can be granted or renewed for examining Witnesses without special order.

Where a Commission hath been to examine Witnesses, without reference and certificate upon it, it cannot be discharged upon a bare petition.

Where a Commission is taken out by consent, and the one side at the speeding thereof do put in no Interrogatories, nor examine any Witnesses, (unless upon a motion, and by order of the Court) he shall never be after admitted to have a new Commission.

Where the Defendant had Witnesses, and they being served did not appear, but make default, here a new Commission will be granted to the Defendant. See *Caryes Rep.* 91. 45. *Tothil.* 3.

The next thing is the Choice of Commissioners, and exceptions against them. First, they must be men indifferent: for the exceptions that are usually taken against them, are, that he who is named Commissioner, is of kindred, or allyed to the party for whom he is named, and so may very well be deemed to side with that party: or that he is Master to the party for whom he is named, or that he is Landlord, or of his Counsel, or Attorney for him, or one to whom he is indebted, or one that hath a suit with the adverse party.

The Commission being to be sate upon at the time and place appointed, the Commissioners must call the Witnesses before them; where if they appear not, an Attachment issues against them, unless it be where Witnesses are impotent, and then the Commission may be adjourned to them to examine them where they be: and usually the Witness may demand his costs before he answer.

Where Witnesses appear to be examined, the Commissioners or Examiners must examine them themselves, and not leave so weighty a business to the trust of their Clerks or others to do it. They are to hold
the

the Witnesses to the point insisted upon. They should examine them but to one Interrogatory at a time, and not to read another to them till they have answered that first. They are to take what comes from them, in answer to what they are examined; and not upon their sight and reading all the Interrogatories, to let them set it down themselves. After they have been examined, upon better thoughts they may suffer them to amend their Examinations. They ought not either to ask idle questions besides the matter of the Interrogatories, nor set down impertinent answers. They are to set down truly in parchment their sayings; and that done, they are to set their hands to every Schedule, and send them up into Court as they are taken, with a Certificate: and if the Commissioners meet with any obstruction in the work, they must certify that also.

After the Commission is duly executed and returned up, one of them must deliver in Court, or they must send it by one that must make Oath that he received it from one of their hands, and that it is not altered to his knowledge.

If any one of the Commissioners commit any misdemeanour about examination, the party grieved, upon Oath thereof made, may have an Attachment against him.

Where is a disagreement among the Commissioners, or where there is any other special cause that obstructs the Commission, they may have an examiner sent down on purpose to do it. See *Caryes Rep.* 30, 31, 40, 47, 80, 81. *Tot'vil.* 189.

The Interrogatories to examine Witnesses, must be succinct and apt: and when Witnesses upon such Interrogatories are examined in Court, you cannot examine the same Witnesses upon putting in new Interrogatories.

Witnesses ought to be examined by Examiners in Court,

Court, (if they live in or near the Town) and not by Commissioners: for no Commission whatsoever ought to be issued out into any place within ten miles of London.

Either party, as well Plaintiff as Defendant, after answer put in, untill Publication be past, may examine what Witnesses they please in Court, before one of the Examiners: but before Answer, and after Publication, no Examination will be allowed but by special order, some special cause being shewed.

Notice must be given both of the names and dwelling-places of the persons examined, in all cases of examination.

After an Order for Publication, and that delivered to the Examiner, no witness may be examined in Court, though he were sworn before; and if any such be, his Depositions may be suppressed. *Caryes Rep.* 27, 58, 93. *Tothil.* 189, 190, 191.

No Abstract or Copy of the Depositions of any Witnesses is to be delivered till Publication be past. Neither may any Depositions be suppressed upon a bare petition only, with References and Certificates upon it.

Where there are several Causes which are meerly cross Causes between the same parties, and touching the same matter, there the Depositions of Witnesses in the several Causes may be used at the hearing of both Causes, (being heard together) without any motion.

Where Depositions are regularly taken, they may not be suppressed by motion: but if any Depositions appear to the Court to be gotten by practice, they may by order of the Court be suppressed. Depositions taken in Chancery, may by order of the Court be made use of in any other Court. *Caryes Rep.* 35, 36.

He that will examine Witnesses, (*in perpetuam rei*

me-

memoriam) to preserve a testimony, he must first exhibit his Bill, and shew his title to the thing, and that the Witnesses to prove it are old, and not like to live long, whereby he is in danger to lose it; and then pray a Commission to some Gentlemen of credit in the Country to examine them, and a *Subpoena* to the parties interested to shew cause if they can to the contrary: and if the party interested being duly served, within fourteen dayes shew cause, the Plaintiff must desist; and if no cause be shewn, he may go on alone, if the other will not joyn with him, as he may if he will: and then fourteen days warning is to be given of the execution thereof. In this case the Court will appoint Commissioners, and give Articles to examine upon; or they may be examined in Court by an Examiner. But here observe, that none but aged and impotent persons may be examined upon this Commission.

Where the Defendant takes exceptions to the proceedings in speeding the Commission, as, whether he did appear or not, and whether Oath were made before them of notice given to him of the time and place of execution thereof; in such case the Commissioners must certifie up with the Commission, the exceptions the Defendant so took.

This testimony taken upon this Commission, is not to be published while the Witnesses live; but in some cases, as either by consent of the parties, or upon Oath made that either the Plaintiff hath some tryal at Law, wherein he shall need it, and that the Witnesses are not able to come to the place, or otherwise by order of Court; and then the Commission is to be opened by a Master, and to be considered of; and afterwards it may, if the party will exemplifie it, by order of this Court, be given in evidence in any other Court.

These Depositions thus taken, shall not be made use of to be given in evidence against any other but the Defendant, who was warned to defend it, his Heirs or Assigns, or some other claiming by or under him, by some interest which accrued to him after the Bill preferred, *Torbil.* 189, 190, 191, 192.

Where both Plaintiff and Defendant have examined what Witnesses they please, and are ready to go to hearing, there either of them must first give the other a Rule for Publication: which Rule being expired, and no cause shewn to the contrary, then Publication passeth. After which, neither party can examine Witnesses, unless it be by special order of the Court; which will not be granted without an Oath made, that the party which requireth the same, nor any of his Counsel, or Solicitor, have seen, read, or been made privy to any Examinations of any the Witnesses formerly examined in that cause, by either of the parties; and thereupon some good cause be shewn, either by Oath, or Certificate of Commissioners, why the party could not get his said Witnesses examined within the time limited for their examination: in which case sometimes the Court giveth liberty to examine Witnesses by a time prefixed; with this *Proviso*, that the party shall not in the mean time see any of the said former examinations.

After Publication is had, the Plaintiff, or if he neglect, the Defendant may procure a day of hearing of course to be set down by his Clerk at the end of the Term, when either the Lord Chancellor or Master of the Rolls do set down Causes to be heard.

The dayes must be set down according to the priority of Publication; neither must any Cause be presented for hearing, the same Term that Publication passeth.

All Proceſs to hear Judgement must be returnable six or seven days before the day of hearing, except

it be in the beginning of the Term, when the time will not bear it: and the Writ must have on the back of it the very day of hearing; at which day, if the Plaintiff do not appear, the Defendant is to be dismissed with costs. *Caryes Rep.* 45.

SECT. VI.

Our Solicitor having thus far with diligence managed his Clyents business, and brought his Cause to a hearing; the next point of his care will be to get the Decree drawn up; which should be done as short as with conveniency it may, and not recite the Pleadings at large, but the sum thereof briefly. And if it be made before the Master of the Rolls, or any of the Judges, it ought, being drawn, to be first signed by them, and afterwards by the Lord high Chancellour, and then it must be inrolled; which Signing and Inrolment ought to be done before the first day after the next *Michaelmas* or *Easter* Term after the making of it.

Where the Decree concerns Lands or Leases, it must be entred into the Registers Docket-book, within six months after the making of it; otherwise it shall not prejudice the Purchaser of the Land: neither indeed shall any Decree be binding to any but those who are served with Process *ad audiendum Judicium*, or that did appear *Gratis*.

The Purchaser that comes in by Conveyance *bona fide* from the Defendant before the Bill exhibited, and that is no party by Bill or Order, shall not be bound up by any Decree. But where a man becomes a Purchaser, *pendente lite*, and without any colour of privity, or allowance of this Court, there it shall regularly bind him: yet in such case, if there have been any intermission of the suit, or the Court be acquainted with the Conveyance, then the Court is to give order and direction in it.

No

No Decree made by the Court can be crossed, altered or explained upon a bare petition only; and yet thereby it for some Special Reasons may be stayed for a while till it can be moved in Court.

A Decree once inrolled cannot be reversed or altered but by a Bill of Review, unless it be in case of mis-casting, where the case is demonstrative; and then it may be done by Order.

A Decree will bind the person of a man: for where any do refuse to obey it, the Court will imprison them till they conform. It binds all the rights and titles to Land and Goods: for the Court by Order of Sequestration and Injunction will dispose of the possession thereof for ever to him whom the Court judged the right to belong in conscience.

Where a Decree is to be made upon a pretence of Equity against the Judgement of another Court, that Judgement is first read; and then the Decree is not to vacate the Judgement, but to order the unreasonable party:

The Decree being thus obtained, our Solicitor may sometimes meet with stubborn and perverse people: it is most requisite therefore that he be instructed how the Court doth use to enforce Obedience to their Decrees, and to punish the breach of them; that so he may the better know which way to take to procure the Court to do the same in his Clyents behalf: and that is to be obtained thus.

First, he must serve the party with the Decree it self, under the Seal of the Court: and if he yield not obedience thereunto, but stands obstinate, then proceed to take out all the Proccesses of contempt against him one after another; and the parcy being taken, will be straightly imprisoned, and not set at liberty till he yield obedience to it; that is, that he perform that part of the Decree which is presently to be done, and give

give security to perform the other part which is to be done in the future. Also the Lord Chancellor may for his contempt fine him what he pleases, and afterwards the same may be estreated.

Where the Decree is for Land, and the party remains obstinate or wilful after his imprisonment, the Court upon motion will grant an Injunction for the possession: and this being disobeyed after it is served, and Oath made thereof, the Court in that case will grant a Commission to some Justices; and if need be, a Writ of Assistance to the Sheriff to put him in possession. *Caryes Reports* 23, 34, 36, 37. *Tothil* 56 & 57.

Where this Injunction is granted for possession of the Land, and the party sits out all Process of contempt, and cannot be found by the Serjeant at Arms, or make a rescue; there the Court being by Oath upon motion informed thereof, will grant a Sequestration of the Land. *Tothil* 107. And this Sequestration is granted sometimes as well of the Goods, as of the Profits of a mans Land; and that for his wilfulness in standing out in contempt, and disobedience to the Court, as well where it is for discharge and payment of Debts and Duties, as where the Decree is for payment of a sum of money. *Tothil* 175, 176.

SECT. VII.

IN case of contempts upon force, or ill words, used upon any that serveth Process, or other words of scandal to the Court; if they be proved by Affidavit, the party forthwith upon motion will be committed, if the words spoken deserve it.

For other contempts against the Orders of the Court, take in short as followeth. First, an Attachment goes forth upon Affidavit made of the contempt; then the party being taken, is to be examined upon

Inter-

Interrogatories; which is many times upon motion referred to one of the Masters of the Chancery.

The Contempter coming in *Gratis*, or upon Process, should give notice to the Clerk of the other side of his appearance: and if there be not Interrogatories put in within eight daies, or being examined, if no reference be of the Examination, nor Commission taken out of the other side, or Witnesses examined to prove the contempt in a moneth; the Contempter shall be discharged, and shall recover costs, to be taxed by a Master without any motion. But if after he have appeared upon the contempt, he depart unexamined, he must stand committed till he be examined and cleared; and if it be found, he must clear it, and pay costs e're he be discharged.

Such as stand committed for contempts upon Attachments, or Commissions of Rebellion, must enter into bond to attend from day to day, and not to depart without leave of the Court. *Caryes Rep.* 9, 44, 70, 71, 82.

Imprisonments upon contempts for matters past, may be discharged *ex gratia*, after sufficient imprisonment; or it may be otherwise dispensed withal. But where the imprisonment is for non-performance of any Order of the Court in force, then the person so in contempt ought not to be discharged except he first obey; only the Court may dispense with the contempt for a time.

After all this, and a Decree performed, or else the party in Prison for non-performance as aforesaid; yet ought our Solicitor to understand, that his Clyent for all this may be a great way off from an end: for upon performance and obedience to the Decree, a Bill of Review may be brought. At the putting in of which, the party that prefers it must enter into a Recognizance with sureties for the satisfying of costs and

damages for the delay, if it be found against him.

Where a Cause is dismissed upon full hearing, and the dismissal signed and enrolled, it cannot be retained again but by a Bill of Review; and that in some special cases too: for

No Bill of Review is grantable but upon error in Law, appearing in the body of the Decree it self, without averment or further examination of any matter or fact which might have been had at the time of the Decree, unless he shew some new matter which hath risen in time after the Decree, whereof the Plaintiff could not have advantage before; and then upon Oath made that there is a discovery of such new matter, this Bill (by the leave of the Court) may be exhibited, giving security as before.

Where the Decree is to yield the possession of Land, deliver Writings, or to pay money, he must first perform that before a Review: but if the Decree be to extinguish a Right, convey Land, release a Debt, acknowledge satisfaction, or to cancel Records or Evidences, or the like, it may be stayed by the Courts order till the Bill of Review be determined.

No Witnesses which either were or might have been examined upon the former Bill, shall upon this Bill of Review be examined to any matters. *Tothil 173.*

CHAP. V.

Shewing our Solicitor several other incidents which he ought to be skilful in, and much relating to his Practice.

HAVING now in the former Chapter, and the several Sections thereof, passed through the general proceedings of the Chancery upon Bills, Answers, and all other things, even to the Decree and Review thereof; there are yet some things remaining, which in many cases are not only incident, but even essential to those affairs wherein our Solicitor ought to be particularly skilled. And the first of these is concerning Injunctions.

And this is looked upon in the general Acceptation, as a main and chief branch of the power of the Court, for that it makes stay of Proceedings at Common Law; and as before is said, is many times granted to gain possession of Land, and so becomes subsequent to the Decree.

Where it stays proceedings at Law, in some cases it gives leave to go to tryal and judgement, but stayes execution; and where the matter of Law is tryed, it bars them from judgement, as the cause may be.

Or where there is a Judgement, and that executed, it will stay the money in the Sheriffs hand, after the party is arrested at Law for money.

This Writ is commonly procured either upon some Writing or matter of Record plainly appearing, or upon a very old debt that hath long slept, Creditor and Debtor being both dead: or in such cases where the Defendant doth not appear, but sits an Attachment;

or if he appear, either answers not the Bill, or confesseth so much thereof as is sufficient.

Where either the Defendant is beyond the Sea, or being in the Kingdom doth absent himself, so that he cannot be served; or where upon any pretence he hath gotten time to answer; the Court doth usually in those cases upon motion, grant an Injunction to stay suit till the Defendant doth appear.

Where a Commission is granted to take an Answer in the Countrey, an Injunction upon motion will be granted to stay the Defendants suit at Law (if any be) till the Answer come in: and of this the Defendant is bound to take notice, though he be not served therewith.

Where there is a Verdict at Common Law in an Action of Debt, and a Bill be afterwards here exhibited for relief, the money must be deposited in Court before an Injunction can be obtained, unless in some cases, where some special matter in equity appears by the Defendants Answer, or in some former Decree.

Where a person priviledged in this Court is sued elsewhere, that suit may be stayed by an Injunction.

Where Timber is unjustly felled, ancient Meadow-ground plowed up, ancient Pastures that have not been plowed up in twenty years before, or for the Maintenance of Inclosures kept in twenty years before, an Injunction is grantable according to the case.

Where an Injunction is granted to quiet a possession, it is granted of Houses and Land only, and not of a Rent, or such like thing: and it is not to be granted before the hearing of the cause, unless upon an Oath, that the Plaintiff was in possession at the time of the Bill put in; and then only of that possession he had then and three years before, and at the time of the motion, and not to be extended to the possession of those

those from whom he claims. And this shall not hinder the Defendants suit in Law, making of a Lease, taking of a Distress, &c. And this Injunction will soon be dissolved again, if the Plaintiff delay his suit.

Where it is to stay or remove a suit by *Certiorari*, Bond must be first given that the Bill hath matter sufficient in it to bear it, and shall be proved true within fourteen daies after he hath the Writ; and if it be not done in that time, after Certificate of his neglect from the Examiners, it shall be dismissed with costs, and a *Procedendo* granted.

Where the Injunction is to be obtained by motion for matter in the Answer, there the case must be put in writing to the Court.

Where it is granted upon the merit of the cause, or upon special cause in equity, it is to stand till the hearing, unless the Plaintiff delay his suit.

This Writ thus obtained, must be served either on the party himself, his Counsel, Attorney or Solicitor, &c. as the case requires; and the manner of serving is much like to that of serving a *Subpœna*.

A bare petition only will not dissolve an Injunction; nor if it be had by motion, can it be dissolved without a motion of the adverse party.

Where an Injunction is granted till the Answer be put in, and no order be made to continue it within fourteen daies after the Answer come in; in this case it shall be dissolved upon the Registers Certificate thereof only. And if no motion be made that Term, or at the next General Seal after the Term, to continue it for insufficiency of, or matter confessed in the Answer; it is of course dissolved: so where it is to stay a suit at Common Law, and the Plaintiff doth not proceed for three years together.

Where the Injunction is disobeyed, (if you would force obedience thereunto) upon Oath made thereof

all the Processes of Contempt are to go out against him one after another ; and being taken, he is to be imprisoned till he yield obedience to it, or give security to do it. Nor is he to be heard in the principal case, till he yield obedience in every thing to the Injunction. *Tuttil* 107. *Caryes Rep.* 112, 113.

SECT. 2.

A Nother material point is about Dismissions, and how they are to be managed and attained. Concerning which, he is to know, that this is prayed by motion, and had upon Plea to the Bill, or at the hearing of the Cause ; but not after examination of Witnesses before hearing, but upon a discontinuance of prosecution, and then by motion and order.

Where the Plaintiff discontinues his Prosecution, after all the Defendants have answered by the space of two Terms, the cause is to be dismissed the third Term upon course : but after a Replication put in, it cannot be dismissed without an Order upon a motion.

Where a Cause is dismissed upon a full hearing, recorded and certified by the Lord Chancellor, it cannot be again retained, nor a new Bill admitted but where there is new matter.

Where the Bill is duly dismissed of course, or by order, no motion will be heard to retain it, till the costs assessed upon the dismissal be paid, and certified from the Clerk on the other side that it is done.

No dismissal, or retainer upon a Dismission, will be granted on a bare petition only.

In cases of Dismission not upon a full hearing, to a new Bill this may be pleaded.

But generally for all causes of Dismission the Court will retain and dismiss it as they see cause, as daily pra-

practice and experience doth plainly manifest. See *Caryes Rep.* 34, 43, 74, 76, 110.

SECT. 3.

A Third Point much and frequently incident to Practice, are References to the Masters of the Court, and their Reports thereon which happen upon several occasions: As,

Where there is a Demurrer to the Jurisdiction of the Court, there no Reference may be had to a Master upon it, but it must be heard before the Lord Chancellor himself.

After examination of Witnesses is past, there can be no Reference had to a Master to end and determine, unless it be in case of near kin, poverty, or consent of parties.

A Reference of the state of the case is sparingly granted, unless where there is the consent of parties. The examination of Court-Rolls is to be by Reference; but there it must be by two Masters at the least.

No Reference shall be made of the insufficiency of an Answer, without Allegation of special causes. The Reports of the Masters upon References must not exceed the order of Reference, whereby the same is referred. And after the Master hath seen the order, he usually grants out a Warrant, which is shewn unto the other side, whereby he gives notice of the time of his hearing the Cause; where the other side with their Counsel or Solicitor, or both, may as they see cause attend.

The Report it self is usually a brief of what only they finde; wherein the Master ought not to certifie his own opinion, but leaveth the same wholly to the judge-

ment of the Court : and if the Cause be very doubtful, then must he set forth the special case.

No order can be had to confirm the Report, till it be first filed with the Register, under the Masters hand, and a day given to the other side for seven daies, at least to speak to it in Court. But where it doth not ground a Decree, and it be positive, it doth usually stand, and process may be taken out for the performance thereof, unless the adverse party upon notice thereof do within eight daies after, (if it be in Term-time) or if at the General Seals for motions, or if after them, within four daies of the beginning of the next Term, file exceptions to the same. And in such case the party that so fileth exceptions, must deposite forty shillings with the Register, and a day will be set for the Judgement of the Court : and if the Court do not allow the exceptions, the other shall have the forty shillings, and what more the Court shall think fit : if otherwise, the money is to be restored.

The matters chiefly under Reference, are either insufficient Answer, matters of Account, contempt, or abuse of the Court.

Where a Master upon a Reference to him reports an Answer insufficient, the Complainant may take out two *Subpœna's* against the Defendant, the one for twenty shillings costs, and the other to make a better Answer.

SECT. 4.

THere are many occasions intervening in a cause, which do require a motion to set them right : now every motion procures an Order, (now it behoves our Solicitor not to lead his Client into unnecessary and chargeable motions) and every Order must be drawn by the Register who sate then in Court, and

and took Notes thereof (when the same was pronounced) into his Book; by which, to draw up some more full remembrance of that which passed in Court: Which that it may the better be done, our Solicitor after the rising of the Court, ought to repair to the Registers Office; and there finding the Notes, and shewing them to the Register or his Clerk, to give instruction for the drawing up of the said Order for his Clyents better advantage.

Where any Order shall be made, and the Court not informed of the last material Order formerly made, no benefit shall be taken by such Orders, as being surreptitiously procured; and therefore the Register doth alwaies mention the last former Order, in the Order that he draws up at present.

An Order made out of the general Rule, must set down the special Reasons of it.

No Order shall be explained by petition, but by publick motions, both parties being heard.

No Order but final Orders and Decrees may be received to be entred after eight daies after the pronouncing thereof, that day being included.

The Register is to keep Copies of Orders he doth deliver, and he is to mark the same; which done, it is to be entred by the entring Clerk, and so brought back again to the Register for his hand to be put to it, and then it is authentick.

The Register after a hearing and reference to a Master, is to set down in the Order of Reference what was the Opinion of the Court, unless the Court do direct it to be drawn otherwise.

All Orders drawn up by the Registers, are to be entred under the Registers hand in due time; and after they are once so entred, they may not be in any manner, upon any occasion whatsoever, altered, without a special Order and direction of the Court to that purpose.

It

It was an antient piece of practice, but I think now almost super-annuated, that the Register within ten daies after the end of every Term should certifie the Lord Chancellor, or Lord Keeper for the time being, what References depend in the hand of any Master, and how long they have depended; that so if any of them have depended over-long, the Court may require an account thereof from the Master, and quicken him to a speedy dispatch.

SECT. 5.

IT doth often fall out, that some persons may have right to an Estate, yet not wherewith to prosecute the same; or else may be made parties to a suit, as knowing much therein, yet have not wherewith to make either a defence or discovery: in such cases the party making Oath before a Master of his poverty, and exhibiting the same either to the Lord Chancellor or Master of the Rolls, together with a petition, they, or one of them will admit him to sue *in forma pauperis*, and assign him such Counsel, Six Clerk, &c. as he shall desire.

But here it is necessary for our Solicitor to know, that there are many Paupers who bring only vexatious suits; which if he can discover, and inform the Court thereof, they shall not only be dismiss'd, but punished: however though such thing be made appear, the Counsel and Clerk assigned as aforesaid, may not refuse, but must attend their business, unless they shew cause to the Court why they cannot so do.

They must alwaies have their Order of Admission with them, and first move that before any other motion: and indeed it is no hindrance at all to them; for if they have any other motion, they may make it afterward.

Where

Where the Register finds he is not in Pauper, he shall not draw up any Order upon the second motion, but the Pauper pretended shall lose the fruit of it.

No Counsellor, Attorney, Solicitor, or Officer of the Court appointed to be for a Pauper by the Court, is to take any thing of, or contract for any thing with him; and the Pauper that can be proved so to have given or contracted, is to be dispaupered for ever.

If a Pauper sell or contract for his suit, or any part of it, his Bill shall be dismissed, and never after retained.

No Process of contempt shall go out for a Pauper, until it be signed by the Six Clerk who dealeth for him; and he must see there be cause for it.

In all Offices where he hath any occasion to pass any thing, he must still shew his Admission.

Touching Petitions: for the avoiding the multitude of frivolous ones, drawn by persons who are altogether ignorant of the practice and course of the Court, and the true state of the Petitioners business, it were to be wished that none but able Solicitors, such as are described before, both for Learning and Parts; and not every broken Fellow, that can scarce write his name, be allowed by the Court to practice, as is before mentioned, *Pag. 17.*

SECT. 6.

ANother thing fit for our Solicitor to know, is, the matter of Affidavits, and how they are to be made, that they may be effectual. You must know then, that Affidavits are most generally made before Masters of the Chancery: but where it is for the serving of a *Subpœna*, they are sometimes taken and certified by others.

An Affidavit may not be taken against an Affidavit
for

for if it be, the later is not to be used.

An Affidavit ought not to be taken tending to the proof or disproof of the matter in question; nor may any such matter be admitted to be colourably inserted into an Oath made of the serving of Process. *Caryes Rep.* 63, 69, 81, 82, 84, 85, 98, 99, 103.

There is also another point fit for our Solicitors knowledge: for many times there may be some one belonging to the Court, who is thereby a privileged person, by which means he cannot be sued for debt. In such case, and against such a person so privileged, a Declaration for debt, or any other thing whereof the Court holdeth Plea, is to be delivered to one of the Six Clerks, whom the Plaintiff maketh as his Attorney; and he thereupon giveth a day (as it is commonly termed, which is a week, *viz.* the whole next Return) to the Defendant to answer: which day entered into the Six Clerks Costs-book, (in this manner, *Roberts against Johnson*) a day is given from the day of *St. Michael* in one moneth, in a Plea of Privilege.

Day being thus given, the Declaration under the Attorneys hand is sent over to the Petty-bag by one of the said Attorneys Clerks: which Declaration is briefly entered by one of the Clerks there, and likewise the day that is given to the Defendant to answer in a Roll there, which is called *Rotulus rememorationis Parvae Bagæ*: at which day, by the course of the Common Law, if the Defendant plead not, he is fore-judged the Court. But of late the Course hath been to allow the Defendant day of Imparlane: that is, day till the next Return after the Return given him to answer; which is in this manner.

The Defendant retaineth one or other of the Six Clerks, who imparleth for him; which is done in the Six Clerks Costs book, (in this manner, *Roberts against*

against *Johnson*, Imparlanee until the morrow of *All-souls*) at which day it is sent over into the Petty-bag to be entred into the aforesaid Roll, next under the said Declaration.

The said day of Imparlanee being past, another day, *viz.* commonly five daies in a week, (which is commonly called the Peremptory day) is given by the Plaintiffs Attorney, and entred into the Petty-bag, as aforesaid, to the Defendant to plead, or else Judgement is to be entred against him.

If the Defendant plead, his Plea is delivered by his Attorney to the Plaintiffs Attorney; and then if the Plaintiff will proceed to a Tryal, he is to joyn up the Issue, (if he may, for in some cases he cannot) or else the Plaintiff is to reply, and give the Defendant a day, *viz.* a whole Term to joyn up Issue, which is given and entred as the day to answer; and if the Defendant by that day joyns not up the Issue, Judgement is entred up by *Nihil dicit*. Here note, that after a Peremptory day given, the Defendant cannot pray Oyer of the Bond and Condition, or such like, as of late hath been used for meer delay; but if the Issue be joyned up, either by the Plaintiff or Defendant, then is the Record made up, and the same with a *Venire facias* is sent into the Kings Bench to be tryed, as an Action there at Issue; and upon Judgement there, execution is thereupon there awarded.

But if the Defendant refuse or neglect at the day given him to answer or plead (for he may plead if he will) at that day, then is Judgement entred against him, and execution is awarded.

Upon Judgement either by default or *Nihil dicit*, some of these Writs of Execution are awarded. If for Debt, the Plaintiff may have an *Elegit*, by *westm. 2 C. 10. 18.* or else a *Levari facias*, or *Fieri facias*: and if the Plaintiff cannot levy his Debt and Damages, then

then he shall have a *Capias ad satisfaciendum*, either for all, or so much as resteth unsatisfied

The Judgement being satisfied, the Plaintiff by himself or his Attorney (if the Defendant desire it) doth acknowledge satisfaction upon the Judgement in the Petty-bag-Office.

It is to be noted, that whatsoever day is given by any of the Six Clerks, and by them entred in their Book, is yet worth nothing, if the same be not entred in the Petty-bag.

This is the course used against a person that is privileged by a Foreiner: but if a Foreiner be indebted to a privileged person, or incur a suit, then you must observe this course that followeth.

The Defendant being arrested by an Attachment of Privilege, at the suit of a privileged person, as aforesaid, must retain one of the Six Clerks to his Attorney, and must put in Bayl to the Plaintiffs Action, according to the course of the Court; which is, to appear from day to day until the Plea be determined, to satisfy the Plaintiff all such sums of money as the Plaintiff shall recover against him by reason of this suit: then the privileged man putteth in his Declaration, and thereupon the Proceedings are the very same as before against the privileged man.

By the course of the Court the Defendant is to put in four Subsidy-men, or sufficient Sureties (be the Action never so small) as appears by *Archibald and Burials Case*, 23 *Eliz.* wherein the Defendant is bound in 4000 *l.* the sum of the Action, and every Surety in a hundred pounds.

If Judgement be given for a privileged person in this Court, he may if he will take out Execution as before: but if he will not, then he may take out a *Scire facias* against the Defendant and his Manucaptors upon the Bayl: whereupon if Judgement be upon the said

Scire

Scire facias in the Chancery, then Execution is there awarded; but if upon Issue joyned and sent into the Kings Bench, and upon Tryal there, Judgement be given, then is Execution there awarded: and upon satisfaction of the Debt and Damages, the Bayl is to be discharged upon the acknowledgement of satisfaction, as before is mentioned against the priviledged person.

If either the Plaintiff or Defendant upon Declaration of Privilege or *Scire facias* demur in Chancery, the Demurret being joyned, a day is set down by the Lord Chancellor or Lord Keeper for the arguing thereof before him. And if upon the Argument it fall out to be a *Respondeas oñster*, then Judgement is entred thereupon: and if it be against the Defendant, then Execution is awarded; and if against the Plaintiff, then it is that *Nil capiat per Billam*, that he take nothing by his Writ or Declaration.

But if it be a *Respondeas ultra*, then is the Defendant to pay costs, and a day given for him to plead peremptorily, or Judgement to be entred.

Thus have I quite gone through the whole practick part wherein our Solicitor ought to be versed: I shall in the next place give you a Table of Fees; which in regard he may in dealing for Clyents have occasions for frequent disbursements, I think it very necessary: which are in short these, and shall make one entire Section, and the last of this Chapter.

SECT. 7.

A Table of Fees.

FOr al first, second, or other Copies of l. s. d.
all Bills, Answers, and other Plea-
dings whatsoever; as also of all Certifi-
cates and Examinations, made or taken by
vertue of any Commission out of this
Court, and of Interrogatories therewith
returned; and also of all Declarations or
Proceedings by English Bill, or according
to the course of the Common Law; and
for Copies of Records, Rolls or Eviden-
ces brought in to be copyed, or remaining
in the said Court; for every sheet of paper
containing fifteen lines } 0--0--8

For the inrolling all Warrants, where-
by any Patents, Commissions, Licenses,
Pardons, Leases, or other Grants whatso-
ever, do pass by and under the great Seal,
after the rate of every skin so passing the
Great Seal } 0--1--0

For the inrolling of all Warrants for
Commissions of the Peace or Gaol-deliv-
ery, for a liberty of Oyer and Termine,
for Pyracies, for the preservation of the
Game of Swans, and for Commissions for
enquiry sued out for the benefit of any
private person; for every of the said Com-
missions } 0--1--8

For the inrolling of all Warrants for
all Commissions of Appeal and for the Ad-
miralty, for every one of them } 0--0--4

in Chancery.

65

For the inrolment of every War-	1.	s.	d.
rant, for every ordinary License or	00	03	04
Pardon of Alienation			

But if the same be of more than ordinary length, then according to the length, after the rate of ten shillings the Skin, and not above.

For inrolling all Warrants for all Commissions in the nature of Writs of <i>Diem clausit extremum</i> , <i>Mandamus</i> , <i>Idcota probanda</i> , <i>Lunatic</i> inquirend', <i>Melius inquirend'</i> , for every of them	00	03	04
--	----	----	----

For inrolling the Warrants for every Patent or Grant of the Custody of any Ward	00	08	08
---	----	----	----

But this of Wards I suppose now to be of little use, in regard all manner of Wardships are quite taken off, by a Statute made in the 13 of King Charles 2.

For inrolling the Warrant for every Presentation, Donation or Revocation to any Rectory, Vicaridge, Deanry, Archdeaconry, Chancellorship, Treasurership, or dignity to any Metropolitanical, Cathedral or Collegiate Church, or for any Canonship or Prebend in any of the said Churches, or for the Mastership in any Hospital or Ecclesiastical Living, or for the Grant of any Presentation or Presentations, <i>pro unica vel pluribus vicibus</i> thereunto	00	03	04
--	----	----	----

For the inrolling of the Warrants for every <i>Mandamus ad Installand'</i>	00	03	04
--	----	----	----

For the inrolling of all Warrants for all Wine-licenses, for every life	00	03	04
---	----	----	----

F

Or

Or such Fee not exceeding that proportion as by the Chancellor shall be set down: though formerly they paid if it were granted for three lives but

For the inrolling Warrants for every Pardon or Outlawry } 00 03 04

For inrolling Warrants for every Denization or Commission of Bankrupts } 00 03 04

For Writing of every exemplification, as well of Records in the Tower, as of any Record whatsoever, after the rate of every Skin } 01 06 08

The Six Clerks Fee of every Clyent for every Term whilst his cause dependeth undetermined by Decree or by Dismission, the Termly Fee of } 00 03 04

And so if there be twenty Plaintiffs in one Bill, they all pay but one Fee for one Term.

But for every three Defendants reckoning the Husband and Wife but one person; there is due for their first appearance } 00 03 04

And upon the first appearance, if every Defendant appears severally by himself, he is to pay the Fee of three shillings four pence; but every Term afterwards, during the continuance of the Cause, there is only the Fee of three shillings four pence the Term to be paid for all the Defendants that did appear in any Term or Vacation in the same Cause.

For a Writ of Subpoena to answer } 00 01 06

in Chancery

67

	<i>l.</i>	<i>s.</i>	<i>d.</i>
If there be three in the Writ, you } pay more } 00 00 06			
For an Attachment } 00 02 10			
For breaking it up with the She- } riff, and his warrant thereon } 00 02 04			
For the Return of the Attachment. } 00 00 04			
For a Proclamation of Rebellion } 00 02 10			
Breaking it up, and Warrant } 00 02 04			
The Return } 00 00 04			
For a Commission of Rebellion } 00 18 02			
For the Inrolment of every <i>Liberate</i> } and <i>Allocate</i> } 00 03 04			
The Rule which the Plaintiff gives } the Defendant to make Answer by } 00 00 04			
a day when the Defendant appears } For each Rule for Publication af- } ter Examination of Witnesses } 00 00 04			
For entering them with the Regi- } ster, for each } 00 00 04			
The Defendants appearance } 00 04 00			
In which is included the Clerks Fee for the Term			
For the Oath made that the an- } swer is true } 00 01 00			
And for every Defendant, if they be never so many.			
For a Commission to take an answer } in the Country by <i>Dedimus potestatem</i> } 00 07 10			
Besides the ingrossing of the Bill, } which is included in it, every sheet } 00 00 06			
For a <i>Subpoena</i> for costs, where the } Bill is not put in by the Complainant } 00 02 06			
within the time limited			
For a Bill of costs, and the entry of it } 00 02 04			
For a Joynt-commission to exa- } mine Witnesses in the Country } 00 07 10			

	<i>l.</i>	<i>s.</i>	<i>d.</i>
The Plaintiff payes the Defendant	00	06	08
For the Examination of every Wit- ness here before the Examiners	00	02	06
For the Oath of every Witness that is to be examined	00	01	00
For the Copies of Depositions re- turnable by Commission	00	00	08
For the Copies of Depositions taken in the Examiners Office, for each sheet	00	01	00
For the drawing up of an Order upon motion to the Register, for the first side	00	03	00
For every other side	00	01	06
For entering of the same Order, e- very side	00	00	06
Fees of an Injunction in all	01	02	06
If it be granted by the Master of the Rolls, then you pay two shillings more.			
For a <i>Subpœna</i> to rejoyn	00	02	06
For a <i>Subpœna ad audiendum Judi- cium</i>	00	02	06
For a <i>Subpœna super ordinem</i> to shew cause	00	07	01
For a <i>Subpœna ducens tecum</i>	00	07	01
For a <i>Subpœna de executione ordinis</i>	01	00	00
For the Copy of Replication, Re- joynder, Sur-rejoynder, Rebutter, and Sur-rebutter, as for Bill and Answer.	01	00	00
Fees for a Decretal Order drawing up, as in another Order; only for the word <i>Decree</i> you must pay more	00	18	06
For every Writ of execution of a- ny Order	00	06	08
For drawing and inrolling every Decree and Dismission respectively	00	03	04

For

For every Writ of Execution upon any Decree, after the rate of every Skin. } l. s. d.
01 06 08

For writing of every Sheriffs Patent, Writ of Assistance, Writ of Discharge, Commission to take the Sheriffs Oaths, the Warrant of Attorney, and writing the two Oaths, and the Clerks Fee } 01 01 08

For every Supersedeas for the discharge of any Commission, or other Writ made in the Six Clerks Office } 00 06 08

For every Supersedeas of Priviledge 00 06 08

For every special Certiorari, or Proceedendo, Corpus cum causa, or Habeas Corpus } 00 06 08

For every Bail upon every Writ of Corpus cum causa, or nature of priviledge } 00 01 09

For all manner of Certiorari's and Proceedendo's of course } 00 01 09

For every Recognizance or Bond made in Court } 00 01 00

For every Oath before a Master 00 01 00

For every Report, though never so small, ten shillings, and the Clerk five shillings; and if it be longer, then more

For filing every Affidavit 00 06 08

For filing every Report, the like 00 06 08

For the Solicitors Termly Fee 00 06 08

And for every attendance in Court or on References. } 00 06 08

CHAP. VI.

How to enter into, and sue out a Recognizance in Chancery.

IF any man would take the security for a Debt, or any other thing by way of Recognizance, which is a very good assurance; the way to enter into it is, first draw up your Recognizance, the form whereof for your better instruction is here inserted.

A Recognizance in Chancery,

R. B. de G. in Parochia de R. in Comit. S. Yeoman, coram Domino Rege in Cancellar. sua personaliter constitut. Recogn. se debere N. M. civi & S. London centum libr. bonæ & legalis monete Angliæ; solvend. eidem N. M. aut suo certo Attorn. Executor. Administrator. vel Assign. suis, in festo Sancti Johannis Baptiste (or what time is for the payment of the money agreed upon) post. dat. hujus Recognitionis: & nisi ita fecerit, vult & concedit, pro se, Hered. Executor. & Administrat. suis, quod dicta summa centum libr. levetur & recuperetur de Maneriis, Messagiis, Terr. Tenementis, Bonis, Catall. & Hereditamentis ipsius R. B. Hered. Executor. vel Administrator. suorum ubicumq; fuerint invent. per presentes, ad solam opus & usum prefat. N. M. Executor. vel Administrator. suor. Teste dicti. Dom. Rege apud Westm. 21 die J. Anno Regni Dom. nostri Caroli secundi Dei grat. Angliæ, Scotie, Franciæ & Hiberniæ Regis, fidei defensoris, &c. vicessimo primo, Annoq; Dom. 1669.

The Recognizance being thus drawn, the party who

is to enter into the same, must go before one of the Masters in Chancery, and there acknowledge it; and the Master will sign it; for which you must pay two shillings: then carry your Recognizance to a Clerk in the Inrollment-Office, and there you shall have it inrolled: but you need not inroll it unless you please, but within 12 moneths after the acknowledgement.

If afterwards you would sue out a Recognizance that is taken here, then follow these directions.

Instructions how to sue out a Recognizance taken in Chancery.

You are first to bring a Copy of the Recognizance to one of the Clerks of the Petty-bag, and thereupon (if you will) he will make you out two Writs of *Scire facias*; one of a Return past, and the other of a Return to come. These Writs you must deliver to the Sheriff of *Middl sex*, who will return them, as in this case the Law enjoyneth him to do.

And when you have your Writs returned, you are to carry them again to the Petty-bag, and retain one of the Clerks there to be your Attorney herein.

And then give the Defendant a day to appear; which if he do not accordingly, a Judgement is to be awarded against him for his said default: and if the Defendant do appear by the day to him so given, then is the Plaintiff to declare against him by his said Attorney, and he the Defendant is to answer and plead to the Plaintiff here as is usual in the Courts of Common-Law. And when you are at full issue, you are at the furthest of your proceeding in Chancery: for then if you proceed to Tryal, you must have the whole proceeding in this Office written into Parchment; and it must either be sent by the Officer of the Petty-bag sealed up, to be tryed in the Kings-Bench, or Com-

mon Pleas (which you will) or else it may be delivered over unsealed by the Lord Keeper or Lord Chancellor, which is agreeable with the words *se propria manu*, &c. for there can be no Tryal by Jury in Chancery.

CHAP. VII.

The way how to sue out a Statute-Staple forfeited in Chancery.

THe way of proceeding in this Case is, to go first to the Clerk of the Staple, and shew him the date of your Statute, when it was acknowledged; which will appear by the Statute it self.

And then the Clerk of the Staple will make your Certificate thereupon, and seal it up; the which carry to the Clerk of the Crown, and get him to make the Exigent therein.

And then deliver your Certificate to the Clerk of the Crown, and have then your Obligation made, and your Extent to be made and indorsed on the back-side.

This indorsement of the Extent is called the fine of the Extent, which must be delivered unto the Sheriff, who will impanel a Jury to inquire, and extend and apprehend as well the body as the Lands, Goods and Chattels of the party so bounden.

And when the Sheriff hath extended them into the Kings hands, he will keep them until you bring him a *Deliberate*, which you may have in the Office of the Petty-bag.

But before you sue out the *Deliberate*, be sure to inform your self, whether there be Estate or Goods extended

tended sufficient to satisfy your Statute; for after you have taken your *Deliberate*, you shall never have more than what was first extended and delivered.

Therefore if you can find any more Lands or Goods extendible in any other place than you have at first extended, you may get them extended likewise, until you have sufficient to satisfy your Debt; and when you have sufficient, then deliver up your Statute unto the Clerk of the Petty-bag, who will thereupon make your said Writ of *Deliberate*, and not before.

CHAP. VIII.

How to sue forth a special Supplicavit out of the Chancery, and also how to supersede the same.

THe first proceeding in this Case is: The party that desires the Writ, must go before one of the Masters of the Chancery, and take his corporal Oath that it is not desired for any malice, hatred or envy to the party, but for his own quietness and safety: whereupon you shall have a Warrant to lead the said *Supplicavit*; and consequently thereupon, the Writ it self, as soon as it can be written and sealed; which one of the Clerks in the Six Clerks Office will do for you.

After you have the same granted, you may sue out of the Chancery a Writ of *Certiorari*; which you should use after this manner (*viz.*) when you have delivered your *Supplicavit* to the Sheriff, to have a Warrant thereupon for the arresting of the party sued, and have got him arrested, you must keep your *Certiorari* private, until he have put in Bail as the case requires.

For

For if he know of the *Certiorari*, he will lye in prison until he have procured a *Superfedeas* unto your *Supplicavit*: which if he do, your *Certiorari* is void and useless.

But when the party is arrested, and hath put in Sureties to the Sheriff or Justice who granted the Warrant upon the Writ, and the party hath put in Bail, then deliver your *Certiorari* unto them that took the Bail, and thereupon they are required to certify up the same accordingly; and by this means shall the party continue bound, until you please of your own accord to release him.

This hath heretofore been a practice very frequent and usual, but of late years happens very seldom. I remember about eight years ago, a troublesome malicious Priest sued out one against some of his neighbours, but I have not heard of any since.

SECT. 2.

HOW to supersede a Writ of *Supplicavit*, because it cannot be known without search and expence to the party against whom the said Writ of *Supplicavit* for the peace or good behaviour is sued out, in what Court the same is so sued, until he be arrested thereupon, whether it be out of the Kings Bench or the Chancery; wherefore to avoid the trouble of being bound, he may sue out and have his *Superfedeas* ever in readiness about him, if he suspect any such practice be intended against him: which *Superfedeas* must be sued out in this manner, *viz.* You shall rather in the Chancery than on the Kings Bench side enter into Bond with Sureties *gratis*, with condition that you shall keep the Kings peace, or be of the good behaviour, for such time as you shall bind your self, and as the occasion shall require. If you suspect your Adversary will

will bind you to the Peace only, then a *Supersedeas* for the peace alone will serve; if for the good behaviour, then must your *Supersedeas* be for the good behaviour; or if both, for both.

When you have so bound your self with Sureties, or Sureties in your absence have so undertaken for you (as your *Manucaptors*) before a Master in Chancery, you may have a Warrant, and thereupon your *Supersedeas*, so soon as it can be made and sealed. And thus much for *Supplicavit* and *Supersedeas*.

CHAP. IX.

Of the amplitude of this Court, and the Fees of Original Writs in Chancery.

THE Chancery hath the making out of all Writs of Summons to the Parliament.

In the Petty-bag-Office are all Latin Pleadings concerning the question of any Patent or any thing whatsoever which passeth the great Seal; or whatsoever private Deed between Subjects which is acknowledged in Chancery; and all Statutes and Recognizances taken in this Court and transmitted hither; with all Suits for or against any person privileged in Chancery; and for the Curfitors of the Chancery, they make all Original Writs, both of the Chancery, Kings-Bench, and Common-Pleas.

These Curfitors were incorporated by *Q. Elizabeth*, by the name of the twenty four Curfitors, amongst whom the business of the several Shires is distributed.

If any suit depend before any Sheriff in his Turn or County-Court, you may remove it with a *Recordare*.

If

If it lye in a Court-Barron, the Cursitor will call it away with an *Accedas ad Curiam*.

If it lye in a Town Corporate, he will remove it with a *Certiorari* returnable in Chancery, which may be made of course without any Bill exhibited.

And a *Procedendo* may be made also presently thereupon, before the return of the said *Certiorari*, and that of course likewise.

And also a second *Certiorari*, and a second *Procedendo* thereupon may be made; but the second *Certiorari* should be upon a Bill exhibited, shewing good cause for the Complainant to be relieved in equity.

And upon Bond or Recognizance given by the Plaintiff or some other for him, with condition that the Plaintiff shall prove the contents of the said Bill, the Court of Chancery doth often grant a special *Certiorari*, signed by the Lord Keeper, or Lord Chancellor, or the Master of the Rolls for the time being.

And the condition of this last recited Bond gives the Obligor only fourteen daies liberty to prove the contents of the Bill; which fourteen daies must commence from the date of the Return of the said Writ of *Certiorari*.

SECT. 2.

The Fees of all Original Writs sealed in the Chancery.

	A		l.	s.	d.
A <i>Accedas ad Curiam</i>			0	2	7
<i>Administratio pasture</i>			0	5	7
<i>Ad quod damnum</i>			0	7	2
<i>Annual. reddit.</i>			0	1	6
<i>Assis. cujusq; general.</i>			0	5	6
<i>Attinēt.</i>			0	7	6
<i>Audita querela.</i>			0	7	2

Cert

C

Certiorari
Cessavit

Conspiracy

Contentione

Coronator. eligend.

Cui in vita

Cur. claudend.

Comperuit

Sum. bre. de Covenant

l.	s.	d.
0	1	6
0	2	6
0	5	6
0	2	6
0	7	2
0	1	6
0	2	6
0	2	6
0	2	6

D

Dien clausit extremum

Dedimus potestatem super bre. de con. dor.

Special. dedimus potestatem

Original. de delib. & detinere

0	2	6
0	2	6
0	7	2
0	1	0

E

Ejectione firma

Ejectione custod.

Excommunicat. capiend.

Execut. inde

Expen. nullat.

Error in London

Patent in re

Elegit

0	1	6
0	2	6
0	7	2
0	1	6
0	7	2
0	7	2
0	7	2
0	10	0

Of

F

F *Alfo iudicio*
For. Fac. Maritag.
Forma donationis

<i>l.</i>	<i>s.</i>	<i>d.</i>
0	2	6
0	2	6
0	2	6

H

H *Arred. capt.*
Con. Repleg.

0	2	6
0	5	6

L

L *Eprofo amovendo*
Libertat. proband.
Libertat. allocand.

0	5	6
0	5	6
0	7	2

M

M *Oderat.*
Maintenand.
Minus
Monstraverunt
Mittimus
Mandamus

0	2	6
0	2	6
0	2	6
0	5	6
0	2	6
0	7	2

N

N *Ocur*
Non molestand.
Non omittas
Non ponend. in Affiz.

0	2	6
0	2	6
0	5	6
0	7	2

O

Officinar. non faciend.
Ordinar. non serviend.

l.	s.	d.
0	5	6
0	2	6

P

Part. fract.
Partic. faciend.
Patent. breve de errore corrigend. in Affix. }
attinct.

0	2	6
0	2	6
0	7	2

Pleg. acquictand.

0	2	6
---	---	---

Ponc

0	2	6
---	---	---

Perambulat. faciend.

0	5	6
---	---	---

Palibus reparand.

0	2	6
---	---	---

Post disseizin

0	2	6
---	---	---

Precipe in cur.

0	2	6
---	---	---

Procedendo

0	2	6
---	---	---

Prohibition

0	2	6
---	---	---

Propriet. proband.

0	7	6
---	---	---

R

Recte claus.
Recte Patent
Redisseizin
Reparatio pontium ut arum Domini
Repleg. Original.
Rescous
Ricordare

0	2	2
0	2	6
0	7	2
0	2	6
0	1	6
0	2	6
0	2	6

S T U

Significavit
Breve de estat.

0	7	2
0	2	6

Subpæni

	<i>l.</i>	<i>s.</i>	<i>d.</i>
Subpœnâ	0	2	6
Supersed. inde	0	7	2
Supersed. pro pace	0	5	6
Supersed. omn. al.	0	5	6
Transf.	0	1	0
Transf. super casum	0	2	6
Valore Maritagii	0	2	6
Vasc.	0	2	6
Villat. removend.	0	2	2
Vitar. eligend.	0	2	2

W

W ARRANTIÆ CHARTA	0	2	6
WARRANTIA DIEI	0	5	6
WITHERNAM	0	5	6

CHAP. X.

By way of Advice and Corollary.

THUS have I with brevity, plainness and truth, run over all the most material and effectual things which are required from a Solicitor, or indeed from any belonging to the Court. I suppose I shall not need to say any thing of Solicitation in the Courts of Kings Bench and Common Pleas at *Westminster*, neither of the Exchequer-proceedings by English Bill, they being in effect one and the same with the Chancery, only a little more chargeable. The Office of Pleas agrees with the Kings Bench; and all other Offices belonging to that Court, may rather be looked upon as pertaining to the Kings Revenue, than matter of Record between private subjects. The Hurrings of *London* are of so quick dispatch, and little charge, that the very meanest persons in the City understand the practice thereof, though sometimes there are some delays put upon them by the Practizers, who keep the mystery of their dealing within their Walls. In short, I suppose Solicitation is either only or chiefly needful in Chancery, where always the Causes are of great weight, importance and intricacy; and not in Courts of Law, where the Attorneys and their Clerks are able to manage and go through much more business than they have, their Proceedings being certain and concise, and tyed to stricter Rules than the Chancery, being a Court of Equity, can be. But if our Solicitor will stoop to those smaller Courts, let him know, all that he hath to do there, is but to be able to breviate his Clyents Cause, sit to instruct

Counsel: for in all other things he is but a servant to the Attorney. Yet would I not have him either negligent or ignorant; but, as leisure shall serve, still to have an eye to the Practice of all Courts: for by that means at one time or other he shall be enabled to serve his friend or Clyent. And though by practice he cannot assist, yet by his knowledge he may advise what may be the safest way to tread in. So shall he merit the praises of a knowing and industrious person; making good that of Cicero in his first Book de Officiis, to wit, *Nulla vitæ pars, neq; publicis, neq; privatis, neq; forensibus, neq; domesticis in rebus, neq; si tecum quid agas, neq; si cum altero contrahas, vacare officio potest: in eoq; excolendo sita est vitæ honestas omnis, & in negligendo turpitudò.* And in another place of the same Book: *Præclare scriptum est à Platone, non nobis solum natì sumus: ortusq; nostri partem patria vindicat, partem amici.* Atq; ut placet Stoicis, *quæ in terris gignuntur ad hominum usum omnia creari, homines autem hominum causa esse procreatos, ut ipsi inter se alii aliis predesse possent.* In hoc *Naturam debemus sequi ducem & communes utilitates asserre in media commutatione officiorum, dando, accipiendo, tum artibus, tum opera, tum facultatibus devincire hominum inter homines societatem.*

“It was most excellently written by the divine Plato,
 “(saith he) that we are not born for our selves only: for of our being, our Country challengeth one
 “part, and another our Friends. And as the Stoicks
 “said, that all things that were bred by the earth,
 “were brought forth for the use of man: so men were
 “born for the sake of one another, that they might
 “help and be profitable one to another. And herein
 “indeed we should follow our great Commanders
 “Nature, by giving and receiving, to do common
 “good, by all the arts, ways, means and endeavours
 “that they can possibly find to oblige and tye men

“roge-

together one to another in a civil society, or bond of friendship. But every man is not fit for this; *ex quovis ligno non fit Mercurius*: therefore it is fit that none should meddle in Affairs belonging to the Law, but such as have sound discerning Judgements, and know what they go about; lest they become not only punishable, but ridiculous. As it once happened to *Megabyzes* the Persian, a man otherwise of great reputation and valour, who having upon a time entred into the Lodging where the famous Painter *Apelles* did ply and practice his Art, began to discourse touching the same; and would needs give him to understand, that he knew the nature and secrets thereof: to whom *Apelles*, as being a wise and well-conditioned man, thus answered: Truly, *Magabyzes*, before I heard you speak, I held you for a discreet man; for your silence did grace your brave apparel: but since ye have meddled to talk of my trade, trust me not if the very smallest Boy here that prayeth the Oker, will not mock at, and flout you for your labour. Which may teach every man to keep himself within the compass of his Calling, and not every foolish Fellow to undertake so weighty a profession as that of a good Solicitor ought to be. This was inculcated by the Poets, when they feign that their gods do content themselves each within his own sphere; *Mars* medleth with War, *Minerva* with Arts, *Mercury* with Eloquence, *Cupid* with Love, *Neptune* with the Sea, *Pluto* with Hell, *Jupiter* with Heaven. Hence we may gather, that all things do not besit all men: The Horse is fit for riding and running, the Ox for labour in the ground. Yet there are a sort of men (and I wish they were not) who without leaving any part of their idleness and vices, would be as wise as the Philosophers, that have both night and day studied so much. But in these, and such other Occurrences which the present cannot be helped, let us take occasion to

be more watchful and wary, lest we become one of those that forget to carry our selves discreetly ; and while we blame others, run into the same fault ourselves.

Now having accomplished our Solicitor in his Chancery-Practice, we will send him to the Common Law ; and first to the Court of Common Pleas at *westminster*.



THE
SOLLICITOR
IN THE
Common Pleas:

CHAP. XI.

HAVING now passed the Court of Chancery, we bring our Solicitor into the Courts of the Common Law; and because the Court of Common Pleas for its variety of Pleadings, Offices and large extent in the nature of all Actions, both real, personal and mixt, being the most copious Court of Common Law that is, we shall begin with that first; and the better to initiate the Reader into the understanding of the Practice hereof, we shall speak something of the Original and Foundation of this Court.

Before the Reign of King Henry III. there was but one supream Court for determining all Causes, both criminal and civil, which was called the High Court of the King, where the Kings of *England* sat themselves in person, as we shall speak more at large when

We come to treat of the Court of the Kings Bench : so that the Kings Bench and the Common Pleas were then all one Court, which removed as the King did, and followed him whithersoever he went ; only this I must add, that King Henry II. in the three and twentieth year of his Reign, did (by the advice of his Son and Bishops) divide the Kingdom into six parts, and to every of those he assigned three Justices, called by Bracton, *Itinerantes* ; and by Britton, Justices in Eyre, *quasi errantes*, in respect of the other Justices, who at first were called *Residentes*, *Sedentes*, and afterwards *Justiciarii de Banco*, (which title they have to this hour) because of the certain place of their sitting without remove.

These Justices in Eyre had their Circuits not much differing from the same that our Judges of Assize do now ride : and these Justices in Eyre held Plea as well of criminal as of civil Causes, and so continued untill the beginning of the Reign of King Edward III. about which time their Authority began to decay, being weakened by advancing of Justices of Assize, and by ordaining Wardens of the Peace, now called Justices of the Peace : soon after which the Sessions in Eyre did begin to decay and cease. And in the ninth year of King Henry III. he granted unto his Subjects that great Charter of the liberties of England, in Chap. II. whereof it is thus ordained : *Communia placita non sequantur Curiam nostram, sed teneantur in aliquo certo loco* : Common Pleas shall not follow our Court, but shall be held in some certain place. Whereupon this Court was established at Westminster as a standing seat of Justice, for the determination of such Pleas as are meerly civil, and belong to the Subjects between themselves. And thus began that Court now called the Common Pleas.

SECT. II.

The Officers of the Common Pleas as it is now established.

THis Court consists of a Lord Chief Justice, and three other Judges.

The subordinate Officers are,

The *Custos Brevium*, or Keeper of the Writs, who is the first and chief Officer of the Court.

The three *Prothonotaries*, in whose Offices all Pleadings are entered, and all common Recoveries recorded and exemplified.

The Clerk of the Warrants, who entrench all Warrants of Attorney, and enrollerth all Deeds acknowledged before the Justices of the Court.

Philizers, who have the several Counties of England divided amongst them, and make all mean Processes upon Original before appearance, as *Capias*, *Alias*, *Pluries*, &c.

The Clerk of the *Essoynes*, who doth enter the *Essoynes* and *Exceptions* in all Actions wherein *Essoynes* do lie, and prepareth and marketh all the Rolls used for the Court.

The Clerk of the *utlaries*, who makes the *Capias utlagatum*, upon the return of the *Exigents* brought unto him: the Kings Attorney-General for the time being is properly Master of this Office.

The *Exigenters* are likewise appointed for several Counties, and make the Writs of the *Exigents* and Proclamations upon the return of the *Pluries capias*, brought in unto them.

The Clerk of the *Supersedeas*, who makes Writs to
G 4 super-

superfede the outlawing upon the parties appearing to the Exigent.

The Clerk of the *Juries*, who makes the Writs of *Habeas Corpora Jur.* & *distringas Jur.* for the tryal of Issues.

The *Chirographer*, who makes the Indentures of all Fines levied.

The Clerk of the *Kings Silver*, who enters upon Record the money which the King is to have upon Fines for the Post-Fines, according to the value of the Land, as the same is rated upon the Writs of Covenant.

The Clerk of the *Errors*, who makes the *Superfedeas* upon Writs of Error, and doth transcribe the Records out of the Common Pleas into the Kings Bench.

The Clerk of the *Treasury*, who keepeth the Rolls of the Court, and makes Copies and Exemplifications thereof, and also all Records of *Nisi Prius*, which are after the same Term wherein issue is joyned.

The Proclamator of the Court, the Keeper of the Court, the Office of Inrollment of Fines and Recoveries, erected by Statute.

Four Cryers or Tipstaves, Substitutes to the Proclamator.

The Warden of the *Fleet*, who by himself or his Deputy is to attend the Court; that Prison being proper for all commitments out of that Court.

The Pleaders are Serjeants of the *Coise*; none under that degree are admitted to plead at the Bar, nor to Sign any special Pleadings in that Court.

The Attorneys are very many, being not limited to any certain number; every one whereof, when he is admitted, takes an Oath in Court for the due administration of his Office.

When he takes his Oath, he must pay the Fees following.

To the Judges Box 20 s.

To the Secondary of the first *Prothonotary* 1 s.

To the Cryers and other Officers 11 s.

Then in the afternoon he must have a Note from the *Prothonotary* in whose Office he intends to enter, directed to the Clerk of the Warrants; which is usually made in Parchment as follows :

De Termino Sancti Michaelis, Anno, &c.

A. B. Attorn. Jur.

To which Warrant the *Prothonotary* subscribes his name, and the Clerk of the Warrants upon the receipt thereof, enters his name into the Roll of Attorneys.

The Clerk of the Warrants hath for entering of the same 4 s. 4 d. and for the Roll of that Term 4 d. and 4 d. every Term following as long as he continues an Attorney.

SECT. III.

Instructions for the first commencing a suit in the Common Pleas.

TO begin a suit in this Court, you must first draw your *Præcipe* in Paper according to the nature of your Action, which is your instructions both for the original and mean Process, and therein set down the Town and County where the Defendant lives, with his Addition, whether it be Gent. Husbandman, Yeoman, or the like : and if the Action be upon a specialty, as Bond, Bill, &c. you must draw up your *Præcipe* with an *Alias dictus* (which is the second Addition) as it is in the Bond or Bill *literatim* : and if you sue upon

on an Indenture, the *Alias dictus* must be recited *literatim*, as in the Indenture.

The first ground of a suit in this Court is an original; which if it be an Action of Debt, draw your *Præcipe* thus, *viz.*

Lond. ff. *Pr. A. D. nuper de London generoso, quod reddat R. S. in libras or. r. tres Triā. cap. ret. tres Michaeli.*

If you would have two or three, or four Defendants in one Original (more you cannot have) then draw the *Præcipe* thus:

Pr. T. D. nuper de L. Gent. quod reddat I. M. 20l. Pr. A. B. nuper de L. Husbandman, quod reddat eidem 10l. Pr. C. D. nuper de W. in Com. S. Yeoman, quod reddat eidem 20l. &c.

Note in a Writ you may have four Defendants, yet you can have but one Plaintiff in a Writ, unless it be in a joynt-Action.

In Trespas draw your *Præcipe* thus:

Lond. ff. *Si A. B. fec. &c. tunc pone C. D. nuper de L. Yeoman, de placito quare vi & armis clausum, & domum ipsius A. apud L. fregit, & alia enormia ei intulit, ad grave dampnum ipsius A. & contra pacem, &c.*

In Assault and Battery.

Lond. ff. *Si A. B. fec. &c. tunc pone R. M. nuper de L. Yeoman, de placito quare vi & armis in ipsum A. apud L. insultum fecit, & ipsum, veberavit,*
vul.

vulneravit, & male tractavit, ita quod de vita ejus desperabatur; & alia enormia ei intulit, ad grave dampnum ipsius A. & contra pacem nostram, &c.

In an Action of Accompt, charging the Defendant as Receiver, draw up your *Præcipe* in this manner, viz:

South. ff. Pr. M. L. nuper de H. in Com. prædict. Gen. quod reddat R. S. rationabilem computum suum, de tempore quo fuit receptor denariorum ipsius R. & habeas, &c.

If you charge him as Bayliff, then de tempore quo fuit Ballivus ipsius R. in H. &c.

If as both Bayliff and Receiver, then charge him thus: De tempore quo fuit Ballivus suus in H. & Receptor denariorum ipsius R. & habeas, &c.

A *Præcipe* in Detinue.

Cant. ff. Pr. T. S. nuper de M. in Com. præd. Yeoman, quod reddat R. T. unam equam, or unam vaccam pretii 10l. quam ei injuste detinet, &c.

In Annuity.

Surr. ff. *Præcipe* L. S. nuper de G. in Com. præd. Yeom. quod reddat B. R. que ei à retro sunt de quodam Annuo reddito xl. l. quas ei debet, & injuste detinet, &c.

In an Action of Covenant.

South. ff. T. S. nuper de H. in Com. præd. Yeom. Alias dictus T. S. &c. (literatim as it is in the Indenture) ad respondendum. R. T. de placito quod teneat

ei conventionem inter eos factam, secundum vim, formam
& effectum quarundam Indenturarum inde inter eos con-
fect, &c.

In Ejectione firme.

Middle. ff. Si I. G. fec. &c. tunc pone R. S. nuper de
L. in Com. prædict. Ycom. ad respondendum præ-
fat. I. G. de placito, quare vi & armis unum Mes-
suagium, & viginti Acres terre cum pertinentiis in
L. que C. H. præfat. I. G. dimisit ad Terminum qui
nondum præteriiit, intravit, & ipsum à firma sua præ-
dicta ejecit: Et alia chormia, &c. Ad grave dam-
num, &c. Et contra pacem, &c.

The Original is the Warrant to every *Capias* to ar-
rest; and the return of the Original is the *Teste* of
the *Capias*: but the common course is to take out the
Capias, and sue out the original afterwards, although
it be supposed to be sued out before, because the
Original cannot be so speedily sued out at all
times.

When you have sued out your Original from the
Cursitor of the County where you lay your Action,
you must return it in this manner:

At the upper end of the Writ

Pleg. de Pres. § Johannes Doo,
Richardus Roo.

In the middle, Infran. S. T. nihil habet in Balliva mea
(vel nostra, if there be two Sher-
iffs) per quod Attach. potest.

Lower end, Respons. R. F. & R. R. Vic.

But

But if there be but one Sheriff, the word *Respons.* is omitted.

If there be an Action of Debt, you must say, *Per quod sum. potest*, and not *Attach. potest*.

Note, that the return of the *Capias* is always fifteen dayes or more after the return of the Original; and the *Cap.* is *Teste* of the return of the Original: as I have said before.

Observe likewise: That all manner of personal Actions, where no possession is awarded, as Debt, Detinue, Annuity, Accompt, &c. are transitory, and may be laid in what County the Plaintiff pleaseth: but Actions of *Ejectione firmæ*, Trespas and Waste, are local, and must be tryed in the proper County.

If the Plaintiff desires to have his Action tryed in London, and the Defendant lives in a foreign County, you must first sue out an Original and *Capias* returnable in London of a precedent return; and upon the return of the *Capias* in London, the *Philizer* will make you a *Cap. testat.* into the County where the Defendant dwells, or may be taken.

SECT. IV.

Of suing to the Outlawry.

THis is a common course of suing to the Outlawry, and not arresting the Defendant upon the mean Process. This suing to the Outlawry cannot be perfected under three Terms: as thus, if you would begin in Easter-Vacation to sue a Bond to the Outlawry, then you must be wary to take the benefit of the precedent Term, otherwise you cannot finish it by Michaelmas-Term following. But proceed thus: The Original returnable *quindena Pasche*, the *Cap. Teste*, *quindena Pasch*, *ret. quinquē*

quinque Pasche, Alias capias teste quinq; Pasc. ret. crastin. Trin. Pluries capias teste crastino Trin. ret. tres Trin. and the Exigent and Proclamation returnable in *mensē Michaelis*, both of the same *Teste* and Return.

So observe, between the *Teste* and Return of each Writ, is alwayes full fifteen dayes or more; and the Return of the first Writ is the *Teste* of the second, and so in order.

When you have returned a *nihil* upon the original, carry it to the *Philizer* of London to file, who makes the *Capias* and *alias Capias*; whereupon return *Non est inventus* your self of course, and carry them back again under Seal to the *Philizer*, who will thereupon make a *pluries Capias*, which also return *Non est inventus*, and carry it under Seal to the Exigenter of London, who makes thereupon an Exigent and Proclamation; which Proclamation give or send to the Sheriff of the County where the Defendant lives, any where within *England or Wales* (for no County Palatine, or Liberty whatsoever, can priviledge from the Process of an Outlawry) and carry the Exigent to one of the Compters in London, where there are Clerks attend for that purpose, who proclaim them upon five several Hustling dayes, and the party not appearing by the *Quint. exactus*, is returned outlawed.

If the Defendant in the mean time agree with the Plaintiff, you may withdraw the Writ, paying for a *Retraxit*.

So likewise may you take the benefit of *Michielmas* Term in *Hillary* Vacation, and have the party returned outlawed in *Easter*-Term following: and if the Action be laid in London, you may have an original returnable in *crastino Trin.* and the Exigent will come in returnable in *Hillary*-Term following: but it cannot be so if the Action had been in the Country; so that in London you may sue to the Outlawry three times in the

the year, which in the Country cannot be ; and that is the reason most lay their Actions in *London* upon suing to the Outlawry, because there they are sooner outlawed, because there must be five County-dayes betwixt the *Teste* and return of the *Exigent* ; but in *London* they call them *Husts*, or *Hustling-days*, which are oftner then the County-dayes in the Country ; so that the party is there sooner outlawed, as we shall have occasion to speak of more at large, when we come to direct our Solicitor unto the Court of *Hustings* in *London*.

If it happen that there be not five *Husts* or five County-dayes between the *Teste* and return of the *Exigent*, as sometimes it falls out, then you must get an *Alloeat*. which the *Exigenter* will help you to..

SECT. V.

Of Appearance to the Exigent, and Declaration thereupon.

IF the Defendant upon the return of the *Exigent* do appear thereunto, he shall not be compelled to put in special Bail be the Debt never so great ; whereas if he had been arrested upon a mean Process, he should have been compelled unto it : or if he be outlawed, he must reverse it, and put in special Bayl, if the Debt be above twenty pounds.

Now the way to appear and supersede the *Exigent* is : You must procure a Copy of the *Exigent* from the Clerk for that purpose at the Compter, if the Action be laid in *London*, or from the Sheriff of the County where the Action is laid, which you are to carry to the Clerk of the *Superfedeas*, who is appointed for that purpose, and attends in the mornings every Term at
his

his seat in *Westminster-Hall*, and he will make you a Writ of *Superfedeas*; which you must get allowed by the Sheriff of the County or Clerk of the Compter where the Action is.

Now upon the Defendants appearance by *Superfedeas*, the Plaintiffs Attorney must prepare his Declaration, and deliver it to the Defendants Attorney; and if it be an Action upon a specialty, he must shew the specialty it self, and write the Witnesses names in the Margine of the Paper-book. Or, if the Plaintiff sue and declare as Executor or Administrator, he must shew the Will or Letters of Administration; for so he concludes his Declaration, *viz. Et presat. Cur. tam scriptum predictum, &c. quam literas Testamentarias*, if it be a Will; or *literas Administratorias, &c.* if it be an Administration.

But although the Plaintiffs Attorney hath not the specialty, &c. to shew, yet if he set his hand that the Defendants Attorney shall see it before he plead, he may accept the Declaration without damage. Or, if the Defendants Attorney take an imperfect Copy with blank spaces, he shall not be compelled to plead untill the Plaintiffs Attorney hath made it perfect; and upon taking it he shall imparle of Course.

When the Defendant appears unto an Exigent by *Superfedeas*, the Plaintiff must declare within six or eight days after, otherwise the Defendant may give him a Rule in the Bill of Pleas, in one of the *Prothonotaries Offices*; and if no Declaration come in within the time limited, the Defendant may Non-suit the Plaintiff, and get Costs signed by the *Prothonotary* upon a *non Prof.* and have Execution for the Costs against the Plaintiff, either against his Body or Goods, &c.

On the Contrary, If the Defendant appear by *Superfedeas*, and will not take a Declaration, the Plaintiff

tiff may have Judgement against him by *Nihil dicit*.

Upon an Imparance, the general Rule is, the Defendant is to plead within eight daies of the ensuing Term, after the Defendant hath appeared and taken a Declaration. If he plead not within due time, the Plaintiffs Attorney (having given him a Rule to plead in the Bill of Pleas) may get the *Prothonotary* to sign Costs, and so enter up Judgement by *Nihil dicit* upon the Rule; and thereupon make out what execution he pleaseeth.

Likewise if the Defendant shall plead a general issue, as *Non assumpsit* to an Action upon the Case, *Nisi debet per patriam* to an Action of Debt; if the Plaintiff do not enter his issue, he may after a Rule given non-suit the Plaintiff, and get Costs signed by the *Prothonotary*, and enter up Judgement specially, *Quia non junxit in exitum, nec ulterius prosecut. bre. suum praedict.* This is all matter of course without moving the Court. But in all special Actions, as *Quare impedit*, Dower, Waste, Prohibitions, *Ejectione firme*, and all Actions upon any penal Statute: as the Plaintiff cannot enter Judgement of course without motion, as in ordinary Actions, but he must move the Court to give a day to the Defendant to plead peremptorily, before he can enter Judgement by default; so likewise after the Defendant hath pleaded, and the Plaintiff reply not in due time, the Defendant cannot have Judgement for not prosecuting of course; but he must move the Court to give a day peremptory to the Plaintiff to reply: at which day if he reply not, Judgement shall be awarded against him *pro defect. Replisatio i.*, which must also be entered up specially.

If an Attorney deliver a Declaration, and in the Term following would amend the same in some material point; he cannot do it without moving the Court, who will order he may amend the same, paying costs

to the Defendant for such his amendment.

When a man is arrested upon a *Capias*, and puts in no Bail for his appearance, the Plaintiff hath an Action on the Case against the Sheriff to whom the Writ was directed.

But if the Sheriff hath taken Bail, and the Defendant appear not at the return, then call for a return of your Writ from the Sheriff, who will return a *Cepi Corpus*; which carry to the *Philizer*, and he will amerce the Sheriff 40 s. and make you out an *Habeas Corpus* to the Sheriff: and if the Defendant do not appear by the return thereof, a *Cepi* being returned upon it, the *Philizer* will make an *Alias habeas Corpus*, and amerce the Sheriff 4 l. and so *ad infinitum* till the Defendant do appear; which when he hath done, prepare ready your Declaration.

If the Sheriff who arrested the Defendant be out of his Office before he return your *Habeas Corpus*, and the Defendant appear not, you are to sue forth a *Distress. super. Vic.*

If the Defendant be arrested upon a Debt of twenty pounds, or above; or upon an Action of the Case, wherein above twenty pounds damages are laid: though he did put in Bail for his appearance, and would appear by an Attorney; yet you may proceed with Amerciaments against the Sheriff, till the Defendant come with two sufficient Sureties, such as the Plaintiffs Attorney shall accept of; and go with the *Philizer* before a Judge, and become bound, That if the Defendant be condemned in the Suit against him, he shall pay the Debt or damages recovered against him, or render his body to prison; which Bail the *Philizers* take a Record of: so that now if Judgement be against the Defendant, if at the return of the Execution the Bail bring in his body, and he render himself to prison, then the Bail is discharged.

But

But if the Defendant do not render himself, nor the Bail bring in his body; then after a *Ca. sa.* being returned *Non est inuentus*, and filed with the *Custos b. cv.* a *Scire fac.* may be taken out against the Bail, and they are compelled to satisfy the condemnation for whom they are Bail.

All appearances upon Writs of *Capias*, must be entered in the *Philizers* Office whence the *Capias* issued: but appearances upon Attachments of Privilege, at an Attorneys or Clerks suit, must be entered in the Remembrance in the *Prothonotaries* Office whence it issued: and here the Plaintiff may refuse to accept of an appearance, but may amerce the Sheriff till the Defendant put in special Bail; which must be taken before a Judge upon the Remembrance, by one of the *Prothonotaries* Clerks, and upon putting in of all Bail, the Plaintiffs Attorney must have notice, or he may offer except against the Bail; and upon shewing cause of their insufficiency, unless they can justify themselves, he may get better.

And where the Debt is twenty pounds, or above, as foresaid; though the Defendant give bond for his appearance, and at the day appear by his Attorney, and the Plaintiff not accepting thereof, he may amerce the Sheriff upon a *Capi* returned. Whereupon the Sheriff signs over his Bail-bond to the Plaintiff, who thereupon sues the Defendant and his Bail: if the Defendant do unto that Bond plead *comperuit ad diem*, and the Plaintiff reply, *Quod nul tiel Record*, the Defendants Plea is not good, because the Plaintiff should have had special Bail, so that the issue shall go for the Plaintiff.

If a man be arrested upon a *Clasum fregit*, and the Term following the Plaintiff declares in an Action on the Case, the Defendant shall imparle of course.

But if the Writ be special, and returnable the first

return of the Term following the arrest, the Defendant may be compelled to answer the same Term.

But usually (except in some particular Cases) the Defendant appearing and receiving a Declaration in one Term, hath an Imparance over until the next Term following.

The Defendant may be arrested upon a *Clasum frigit*; and the Plaintiff may declare in Case of trespass and debt.

But if the party be arrested upon a Writ in Debt, the Plaintiff cannot declare in any other Action but in Debt only.

In Actions of Debt upon a Bond or Bill under Seal, it is usual for the Defendants Attorney to save his Clyent charges, to give a Judgement by *non sum in form.* with a *Cesset executio*, till the next Term after, or so long time as he can get of the Plaintiff.

In all special Pleadings, there must be a Serjeants hand to the Plea; and if the Plaintiff reply specially with a Traverse, or the like, the Replication must be also signed by a Serjeant: so also all Demurrers and Joynders in Demurrer must be under a Serjeants hand; and there must be books of Demurrer made for all the Judges.

Upon pleading a tender to a Bond or Bill. the money must be brought into Court with the Plea: for he saies *Quod semper hucusq; paratus fuit, & adhuc paratus existit, ad solvendum, &c.* and if upon issue joyned, the Defendant proves his tender, the Plaintiff loses his Costs.

After an Imparance, a tender cannot be pleaded upon an Action laid in *London*, after the Plaintiffs Attorney hath delivered the Defendants Attorney a Copy of the issue: if he intends to try it, he must give the Defendants Attorney eight days notice thereof at least.

If an Action be laid upon a Bond in *London*, and the Defendant pleads Conditions performed, the money paid at *Holshot* in *Hampshire*, avoiding to the condition, here the *Venire* shall not arise in *London*, but in *Holshot*, in *Com. Southt.* and the record shall go to *Hampshire* Assizes to be tryed. But this you must observe, is where a place of payment is appointed in the condition of the Bond; therefore wise men will not suffer any place of payment in the Condition of a Bond to be mentioned at all; whereby this evil is avoided, and that of pleading a Tender: for if there be no place of payment mentioned, the obligor must tender the money to the obligee himself upon the day of payment, if he would have the benefit of pleading a Tender in case he refuse to receive it.

So if an Action on the Case be brought in *London* against a Carrier for losing goods delivered unto him, which he undertook to deliver at *Abingdon* in *com. Berkes*, and he plead *quod secundum promissionem & assumptionem, boni & catalla quer. deliberavit ad usum quer. apud Abingdon, &c.* In this case the *Venire* shall arise from *Abingdon* in *Com. B.* and there the record shall be tryed.

Likewise if an Action be brought against an Hundred for a Robbery done within that Hundred, the *Venire* must not arise out of that Hundred where the fact was done, (for then they should be both Defendants and Judges of their own cause) but the *Venire* must issue, *i. hundredo prox. adjacen.* and this *Venire* must be entered upon the Roll specially.

Also when issue is joyned, if the Defendant be of kin to the Sheriff either by blood or marriage, the Plaintiff may pray the *Venire* may be directed to the *Coroners*: and this must be specially awarded upon the Roll; and in the awarding, it must be set down and derived from the Sheriff is of kin; and then is the *Venire* directed

to the *Coroners*. And this is called a Challenge to the Array.

And when you make a Challenge to the Jury, your time to challenge them is when they come to the books before they be sworn; for afterwards it is too late.

If at a tryal at the Assizes in the Countrey the Jury do not fill, the Plaintiffs Counsel or Attorney may crave a *Tales de Circumstantibus* to fill up the Jury.

If a Record be brought to be tryed upon any penal Statute, and the Jury fill not, you cannot have a *Tales* without producing a warrant from the Attorney-General; which you must be carefull to have in readiness, lest (if the Jury do not fully appear, as feldome they do,) you lose your tryal: the form of which warrant is in this manner.

Suff. ff. Ni. pri. inter R. P. qui tam pro Dom. Rege quam pro seipso in hac parte sequitur quer. Et. E. S. per Trin. Record. Anno, &c.

Suff. ff. G. P. Mil. & Baronet. Attorn. Dom. Regis nunc general. pet. decem tales de circumstantibus, inter præd. R. P. qui tam pro dict. Dom. Rege, quam seipso in hac parte sequitur; Et præd. E. S. per Trin. Record. Anno 16. Regni Regis Caroli Secundi.

These must be ingrossed in Parchment, and the Attorney-Generals hand must be to them both.

But in all other Cases between party and party, if one or two of the Jury be wanting, the Judge will grant a *Tales*; all which *Tales de Circumstantibus*, must be entred upon the return of the *Postea*, together with the Judgement upon the Issue-Roll.

After a tryal at the Assizes, the beginning of the following Term, the Attorney on whose side the Cause went, ought to call for the return of the *Postea*, from the Clerk

Clerke of the Assize of the County where the cause was tryed : and if the verdict went for the Plaintiff, the Defendant hath four daies within the following Term, to move in Arrest of Judgement, if he see cause : or if a cause be tryed by *Nisi prius* in London in the Term-time, then the Defendant hath four daies next after the tryal to move in Arrest of Judgement.

After your *Postea* is returned, you are to carry it to the *Prothonotary* in whose Office the Record is entred, and he will sign Judgement with costs as the cause requires, upon the *Postea*, which you are to carry thence to the Clerke of the Judgements belonging to that office, who will thereupon make you out what execution you please.

SECT. VI.

The manner how to reverse an Outlawry.

IF a man be sued to an Exigent, and doth not appear at or before the Return thereof, by *Supersedeas*, you are to call for a Return of the Exigent, and of the Proclamation ; which when you have returned the Defendant outlawed, carry the Exigent so returned to the Outlawry-office, where the Clerke of the Outlawries will file it, and make you out either a general *Capias a^{la}ap*. against the body only, or a special Writ against body, goods and lands.

And now the Defendant being outlawed, he is disabled to sue, or take the benefit of the Law against any man, so long as he remains outlawed, because he is *Extra legem positus* : neither can he appear to the Plaintiff at whose suit he was outlawed, but he must reverse the Outlawry, and put in special Bail, if the debt be twenty pounds or above.

So that the Defendant being outlawed, he must reverse the Outlawry, and appear upon a new original.

Now the easiest way of Reversing an Outlawry in the Court of *Common Pleas*, is, first to get a Copy of the *Exigent*; which to obtain at the Outlawry-office, you may have a note of direction how to find it, at the *Custos breviarum*, where you are to search for it; and when you have found it, bespeak a Copy thereof; which when you have gotten, observe carefully whether you can find any errors therein; as the insufficient return of the *Exigent*, if there be any insignificant word therein, or any material word omitted, or want of form, or a word therein not truly written in the dashes or for want of a Proclamation: all these are good Causes of Reversals. When you have found an Error, then go to the *Custos breviarum*, and bespeak the bundle of Writs to be brought into the Court the next day, and there shew to the *Secondary* or *Prothonotary* the Error upon the *Exigent*, which is shewn unto one of the Judges in Court; and afterwards the *Prothonotary* takes a note of the Error, and makes a Certificate to the Outlawry-office of the reversal; which Certificate being brought to the Clerk of the Outlawries, he marks the Outlawry-book discharged; and then is the Reversal drawn up in paper, and entred upon the Roll, and the Defendant restored in *Statu quo prius*.

This is the most usual and ready way of reversing an Outlawry, if a man be outlawed, and neither his body, goods nor lands be taken or seized by the *Capias utlag*.

There is another way of reversing an Outlawry by Writ of Error. If the Defendant his body or goods be taken upon the *Capias utlag*. in the Vacation-time, then his Attorney is to go to the Clerk of the Errors; and if the Action be debt above twenty pounds, he must put in special Bail; or the Attorney must undertake

take that bail shall be put in before he can have a *Supersedeas* for the Defendants discharge : which being done, the Clerk of the *Errors* will make out a *Supersedeas* as to the Sheriff for the Defendants discharge ; which being delivered to the Sheriff, he is forthwith to discharge both the party and his goods, if both be taken ; or if they be not taken, then he is to forbear.

But if a man be outlawed after Judgement, then this kinde of reversal will not be allowed : for an Outlawry after Judgement cannot be reversed untill the Plaintiff hath acknowledged satisfaction upon record, or the Defendant hath paid the money into the Court.

A woman cannot properly be said to be outlawed, *utlagata*, or *extra legem posita* ; but *waviata*, that is, waved, left out, or not regarded ; because women are not sworn to the Law ; (which probably cause the she-Saints of late to be so apt to stir up their husbands to Rebellion) The Writ of Outlawry of a woman is called *Waviana mulieris* : a woman outlawed is a Waive ; and therefore the words in the *Exigent* are, *Quousq; secundum legem & consuetudinem Regi nostri Angliæ, waviaretur* ; and not *utlagaretur*, as it is against a man.

SECT. VII.

How to remove a Prisoner out of any inferiour Prison to the Fleet ; or to remove a cause out of any inferiour Court into the Common-Pleas.

IF a man be in Prison in the Countrey, and you would remove him to the Fleet, if there be no Cause depending against him in the *Common-Pleas*,
and

and you would remove him, the way must be to charge him either with an Attachment of privilege at an Attorneys suit, or a *Capias* at any friends suit; and afterwards bring your writ of *Habeas Corpus cum causa*; and then the cause in the *Common-Pleas* being returned amongst the other causes, the Prisoner will be turned over to the *Fleet* with his causes.

But if you would remove any cause out of any inferior Court or Corporation; if the debt or damages exceed five pounds, you may have a Writ of *Habeas Corpus cum causa* directed to the Court where the Action depends: which if it be in or about *London*, must be returnable *immediatè* at the Judges Chamber; but if in the Countrey, then it must be returnable at a day certain in Court, in Term-time: and upon the Removal, the Defendant must put in special Bail above before a Judge; or for want thereof, the Plaintiff may get a *Procedendo*, and bring it down again.

You must be very careful in the direction of your Writ: for your instruction wherein, I have set down the Stile of all Courts in *England*, and likewise special Directions for special Writs.

SECT. VIII.

General directions for Writs of Habeas Corpus, Error or Privilege.

A

St. Alban in Com. Hertf.

Senescallo Cur. de Record. Burgi nostr. Sancti Albani in Com. Hertf.

Aliter.

Aliter.

Majori & Burgens. ac Senescallo Curie nostrae de Record. ipso Senescallo infra Burgi Sancti Albani in Com. Hertf. & eorum cuilibet, Salutem.

Alaborough.

Ballivis villae de Alaborough.

Cur. Admiralitatis.

I. P. supremae Curie Admiralitatis Angl. Mar. ejusve deputatis legitimis ibidem.

Abington Vill.

Majori, Ballivis & Burgens. Burgi sui de Abington, & eorum cuilibet, salutem.

St. Albans in Com. Hertf.

Preclarissimo C. H. magno Admirallo nostro Angliae, sive ejus locum-tenenti, aut deputat. Senescallo de Record. tenent. infra Burgum Sancti Albani in Com. Hertf.

Aberdon.

Majori & Ballivis Villae de Abendon, & eorum cuilibet.

Adven.

Majori & Ballivis Villae nostrae de Adven. & eorum cuilibet.

Aburgavenny in Com. Mon.

Senescallo & Ballivis Henrici Nevill. Milit. Dom. Aburgavenny, Villae suae de Aburgavenny.

Aldburges.

Senescallo Manerii nostri de Aldburges in Com. Eborum, Salutem.

Allerton.

Ad Curiam Thomae Com. Exon. Manerii & Libertatis suae de Allerton in Com.

Appulby.

Majori Burgi sui de Appulby in Com. Westmerl. Salutem.

Alesbury.

Ballivis Villæ suæ de Alesbury in Com. Buck. Salutem.

Arundell.

Majori & Burgens. Burgi sui de Arundel in Com. Suffex salutem.

Andever.

Ballivo & Burgens. Burgi sui de Andever in Com. Southampt. Salutem.

Avendon.

Majori & Ballivis Villæ nostræ de Avendon in Com.

B

Civitat. Bristol.

Majori, Aldermannis ac Vic. Civitatis sive Vill. Bristol. ac Majori & Constabular. Stapulæ ejusdem Civitatis sive Villæ, necnon Ballivis, Majori, Communitat. ejusdem civitatis sive Villæ Curia suæ tol. ac Ballivis Dist. Majoris & Communitat. ejusdem Civitat. sive Villæ Curia pedis pulverat. & eorum cuilibet, salutem.

Fridgewater.

Majori & Ball. villæ suæ de Bridgewater, salutem.

Beverley.

Majori & gubernatoribus Villæ nostræ de Beverley in Com. Ebor.

Bedford.

Majori, Aldermannis, Burgens. & Recordator. Burgi sive Vill. de Bedford.

Boston in Com. Tinc.

Majori & Burgens. Burgi nostri de Boston in Com. Lincoln.

Bridgenorth Salop.

Ballivis & Burgens. Villæ nostræ de Bridgenorth, & eorum cuilibet.

Burgis

Burgis de Bewdley.

Ballivo & Burgens. Burgi nostri de Bewdley in Wigorn.

Barnstable.

Majori, Aldermannis & Burgens. Burgi five Villæ de Barnstable alias Barstable.

Banbury in Com. Oxon.

Majori aut ejus deputat. uno Aldermanno, Recordatori vel ejus deputat. duobus Capitalib. Burgens. Burgi de Banbury in Com. Oxon. vel trib. eorum, salutem.

Banbury.

Ballivis Lanceloti Episc. Lincoln. Cur. suæ de Banbury.

Bath.

Majori, Aldermannis, Recordat. & Justic. Civitat. nostr. Bath.

Barwick.

Majori Vill. Barwick super Twedam.

Battell.

Senescallo & Ballivis A. Brown Milit. Dom. Vic. Montague Libertat. suæ de Battell in Com. Suffex.

Bury Sancti Edmundi.

Alderm. Recordator. & Capital. Burgens. Burgi nostri de Bury Sancti Edmundi in Com. nostro Suff.

Burton super Trent.

Ballivis & Senescal. T. Page. Dom. Pager. Burgi sui de Burton super Trent, & eorum cuilibet.

Bridewell.

Majori & Communitat. ac omnibus Civibus Civitat. London, necnon Gubernator. possession. Bridewell & Sanct. Thom. Apost.

Beverley.

Majori, Gubernatori & Burgens. Villæ suæ de Beverley, & eorum cuilibet.

Bodwyn.

Majori & Com. Clerico Burgi nostri de Bodwyn.

Beverlacy.

Majori, Recordatori & Gubernatoribus Vill. Beverlacy.

Bathon Civitas.

Majori, Recordatori, Aldermannis & Justiciariis Civitatis Bathon. in Com. Somers. & eorum cuilibet, salutem.

Aliter.

Majori, Justic. ac Recordatori Civitatis Bathon, salutem.

Bathon Episcopo.

Senescallo sive Ballivo Curie sue de placitis ad reverendum in Christo Patrem Dom. N. permissione divina Bathon. & Wellen Episcop. pertinen. sive Concess. tent. apud Guild-hall infra Burgum & Villam nostram de Welles in Com. Somers. salutem.

Bidysford.

Majori, Aldermannis, Burgensibus & Recordatori villae sue de Bidysford in Com. Devon. salutem.

Brownshall.

Ad hundred Johannis D. Mancii sui de Brownshall in Com.

Badbury.

Ad hundred. Mountjoy Blunt Dom. Mountjoy de Badbury in Com.

Blanford Forum.

Ballivo & Constabulariis Burgi sui de Blandford Forum in Com. Dorset, salutem.

Aliter.

Ballivis & Constabulariis Burgi sui de Blandford Forum in Com. Dorset, parcell. Ducatus sui Lancast. salutem.

Blechlinlie.

Burgensibus Burgi sui de Blechlinlie in Com. Sarry, salutem.

Bromchard

Bromchard.

Ad Curiam F. Ep. de Bromchard Forren. in Com.

Brighouse.

Ad Curiam M. E. de Brighouse in Com.

Barnesley.

Ad Curiam Manerii nostri de Barnesley in Com.

Borrowbrig.

Senescallo Burgi nostri de Borrowbridge in Com.
Eborum, parcell. Ducat. nostri Lancastr. salutem.

Brustwick.

Ad Curiam H. C. Militis manerii sui de Brust-
wick in Com.

Barnesley cum Dadworth.

Ad curiam Manerii de Barnesley cum Dadworth in
Com.

Berealston.

Majori & Burgenfibus Burgi sui de Berealston in
Com. Devon. salutem.

Bridport.

Ballivis & Burgenfibus burgi sui de Bridport in
Com. Dorset. salutem.

Bedwyn magna.

Portgreve, Ballivo & Burgenf. burgi sui de Bedwyn
in Com.

Buckingham.

Ballivis & Burgenf. Villæ suæ de Buck. in Com.
Buck. salutem.

Brackley.

Majori & Burgenf. Burgi sui de Brackley in Com.
Northampt. salutem.

Bewdley.

Ballivo & Burgenf. Burgi sui de Bewdley in Com.
Salop.

Bossy.

in Com. Cornub.

C

*Cantuar. C.***M**ajori Civitat. Cantuar.*Cur Palatii Archiepiscopi in Cantuar.*Senescallo Libertat. Gilberti Dom. Archiepiscopi
Cantuar. Cur' Palatii sui infra Civitat. Cantuar.*Cicester. C.*Majori, Aldermannis ac Civibus Civitat. Cicester
salutem.*Colchester.*

Ballivis Vill. de Colchester.

*Cestr. C.*Carolo Principi Wallie, duci Cornub. & Ebor. Co-
miti Cestr. filio suo Clarissimo, sive ejus Camerario
Civitatis Palatini Cestr. vel ejus locum-tenenti ibid.*Cantebr.*

Majori & Ballivis villæ Cantebr.

Coventry C.

Majori & Ballivis Civitatis suæ Coventry

Cheping-Wycombe.

Majori, Ballivis & Burgens. de Cheping-Wycombe.

*Carlyon.*Majori & Ballivis villæ de Carlyon, & eorum cui-
libet.*Cheltenham.*Capitali Senescallo, Ballivo & sectatoribus Manerii,
Burgi sive villæ de Cheltenham, necnon Custod. Gao.
nost. ib.*Custod. Brevium in Communi Banco.*Dilecto & fideli nost. J L. Custod. Brevium nost.
de Communi Banco.*C. Cantuar.*Senescallo Cur. Palatii Dom. Archiepisc. Cant. in
Com. Cancii. clay

Clay juxta Mare in Com'. Nor.

Senescallo C.H. Cur. sue porte de Clay juxta Mare.
Chipping-hamden.

Ballivis & Burgens. Burgi nostri de Chipping-
hamden in com. Glouc.

Castle Rising.

Majori vill. sue de Castle Rising.

Cinque Ports.

Dilecto & fideli consiliar. nostr. E. Z. St. Maurus.
& Cantulpe Castri nostr. Dover Custod. Cancellario &
Admirallo Cinq; Portuum nostror. & membror. eorund.
sive ejus locum-tenenti vel deputat. ibidem, salu-
tem,

Clincke.

Senescallo Cur. Libertatis Reverendi in Christ.
Parr. Dom. Thom. Episc. Winton Manerii sui de
Southwarke.

C. Carlicke.

Majori & Ballivis civitatis Carlicke.

Cheney Court.

Ballivis Reverendi in Christ. Patris T. Episc. C.
Cur. sue de le Cheney-Court.

Cantuar. Pal.

Senescallo cur. Palatii Dom. Archiepisc. Cant.

Cestr.

Camerario Com. Palatini nostri Cestr. seu ejus lo-
cum-tenen. ibidem, salutem.

Cantabr. universitas.

Procancellario Universitatis Cantabr. salutem.

Carleil.

Majori & Ballivis Vill. de Carleil in com.
& eorum cuilibet, salutem.

Carlic. Civitas.

Majori & Ballivis Civitatis Carlick in com.

Coldfield-Sutton.

Gardiano & societari Vill. nostr. de Sutton-Cold-
field in Com. War.

Calve.

Constabulario & Burgensibus Burgi sui de Calve in Com.

Cricklade.

Ballivo & Burgensibus Burgi sui de Cricklade in com. Wilts, salutem.

Carisbrooke.

Clarissimo consanguineo suo H. comiti Southampr, Constabulario castri sui de Carisbrooke in Com. Southampr. vel ejus locum-tenent. ac portatori, five ejus Deputat. ibid.

Chagford Stannar.

Præcharissimo consanguineo suo W. Comiti Pembroke Camerario hospitii sui, præclari ordinis Garceii Milit. Custodi Stannar. in Com. Devon. & Cornub. Capitali Senescallo totius Ducat. Vic. Subsenesc. Deputat. five ejus locum-tenenti, Curie Stannar. de Chagford. in com. Devon. salutem.

Clitheroe.

Ballivo burgi sui de Clitheroe in com. Lancastr. salutem.

Commissario Curie Archiep.

A. B. Auditori causarum venerabilis in Christo patris G. Archiepisc. Cant. totius Anglie primar. causar. & negotior. cur. & Audientie sue.

Commissario Curie London. Aliter.

A. B. Commissario Generali R. Episcopi London. Curie sue Christianitatis apud tenend. vel ejus locum-tenenti.

Chipping Norton.

Ballivis, Senescallo five communi clerico vel Deputat. ejus Burgi five Vill. de Chipping-Norton in Com. Oxon. salutem.

Chestnut.

Senescallo curie.

L. militis manerii sui de Chestnut in com. Hertf.

Christchurch.

Christchurch.

Majori & Burgensibus burgi sui de Christchurch
in com. Southampt.

Cancellario Angliæ.

Prædilecto & fideli suo A. B. Cancellario suo Angliæ.

Custodi Sigilli Magni.

Prædilecto & fideli suo J. W. Episcopo Lincoln. &
Custodi magni Sigilli sui Angl.

Custodi privati Sigilli.

E. Comiti Wigorn. & custodi privati Sigilli sui.

Chirographario de Banco.

A. C. Armigero Chirographario curiæ nostræ de
Banco, salutem.

Cullenbeck.

Senescallo curiæ suæ de Cullenbecke in com.

Carnanton.

Senescallo & Ballivo Manerii sui de Carnanton in
com. Cornub. salutem.

Carvice, Carvion.

Majori & ballivis Vill. de Carvion in com.

Cramborne.

Ad hundred Cur. W. Comitum Sarum. Manerii sui
de Cramborn in com.

Chepstowe Villa.

Senescallo & ballivis Vill. de Chepstowe in com.
Monmouth.

Chepstow. Admiraltat.

Senescallo Cur. Admiraltatis in Chepstow in com.
Monmouth, salutem.

Carlion.

Ad curiam W. Comitum Pembroke de Carlion in
com.

Cors-castellum.

Majori & Senescallo de Cors-Castle in com. Dorset.

Christi Ecclesiæ Cantuarien.

Senescallo alte cur. Decani & Capituli Ecclesiæ

*Christi Cantuar.**Camelford.*

Majori & Burgensibus Burgi sui de Camelford in com. Cornub.

Carlington.

Majori & Burgensibus Burgi sui de Carlington in Com.

Castri Episc. Villa in Com. Salop.

Ballivo & Burgensibus Vill. Castri Episcopens. in Com. Salop. salutem.

Clifton, Dartmouth, Hardnes.

Majori, Ballivo & Burgensibus Burgi sui de Clift. Dartmouth, Hardnes in Com. Devon, salutem.

Castri Novi subtus Linam.

Majori & Burgensibus Burgi sui novi Castri subtus Linam in com Staff. salutem.

Castri Novi sup. Tinam.

Majori & Vill. Castri Novi sup. Tinam in com. Northumber.

*This was lately made a County Palatine (unde quere.)**Clunslund Stat. Stannar.*

Gardiano Stannar. Devon. & Cornub. & Capitali Senescallo Ducat. suo Cornub. aut suo Deputat. ibid. Et præcipue sibi aut suo Deputat. Senescallo infra Manerium de Stan. Clunslund parcell. Ducat. Cornub. præd. infra Com. Cornub. &c.

Cantuarien. Provinc. Supremis Commissior.

Reverendissimo in Christo Patri G. providentia divina Cantuar. Archiep. totius Ang. Primat. & Metropolitano. Ac aliis supremis Commissio. Reg. ad causas Ecclesiasticas inter alias sub magno Sigillo Angliæ legitime & sufficient. autoritat.

D

Dartmouth.

Majori, Ballivis & Burgi sui de Clifton. Dartmouth, Hardnes.

Devises.

Majori, Ballivis & Burgens. burgi nostri de Devises.

Dunelm.

Reverendo in Christo Patri W. D. Episcop. sive
jus locum-tenenti ibidem, salut.

Derbie.

Ballivis, Recordatori & Burgens. vill. sive burgi
vill. de Derb. salutem.

Denbigh.

Ballivis & Recordatori burgi sive Vill. de Denbigh,
salutem.

Doncaster.

Majori & Recordatori vill. de Doncaster, & eorum
quilibet.

Donwich.

Ball. vill. sive burgi de Donwich in Com. Suff.

Dover.

Constabular. nostris Castri nostri de Dover infra
libertat. quinque Portuum in Com. nostro Canc. sive
computat. ejus ib. seu eorum alteri.

Donbevid.

Majori, Aldermannis & Recordatori Burgi de Don-
bevid alias Launceston.

Derbie.

Ballivis & Burgen. burgi nostri Derb.

Sede vacante.

T. C. armigero Cancellario Com. Palatini Du-
elm. sede Episcopali ibid. jam vacante.

Aliter in alio libro.

Custodi Spiritualitatis Episcopatus Dunelm. sede
Episcopali vacante.

Danx.

Ballivo A. D. M. manerii sui de Danx in com.
Ebor.

Downton.

Constabulario & Burgenfibus burgi sui de Downton in com.

Dorchester.

Ballivo & Recordatori burgi sui de Dorchester in
com. Dorset.

Droitwich.

Ballivis & Burgenfibus burgi sui de Droitwich in
com.

Downheid alias Launceston.

Majori, Aldermannis & Recordatori Burgi sui de
Downheid, alias Launceston, in com. Cornub.

Daventry.

Ballivo, Burgenfibus & communitati de burgo de
Daventry in com. Northampt. salutem.

E

C. Eborac.

MAjori, Aldermannis & Vic. Civitatis Eborum.

C. Exon.

Majori & ballivis Civitatis sue Exon. ac Ball.
Cur. pro vestr. ejusdem Civitatis & eorum cuilibet in
com. Devon.

Sancti Petri Ebor.

Senescallo cur. libertat. Decani & capituli Eccle-
siæ Cath. Sancti Petri Ebor.

Estretford.

Ballivis Vill. sue de Estretford in com. North.

Eye.

Eye.

Ballivis nostris Vill. & Burgi de Eye, salutem.

Escaetori.

A.B. Armig. Escaetori nostro com. nostri Salop. ac vic. ejusdem com. Necnon omnibus Ballivis & singulis ministris nostr. com. prædict. tam infra Libertates quam extra, salutem.

Evesham, commonly *Esom* in the Vale.

Majori & Burgenfibus Burgi sui de Evesham in com. Wigorum, &c.

Edlogom.

Ad curiam E. M. Armig. nianerii sui de Edlogom in com.

Elye.

Justic. Episcop. Elien ad placita infra insulam Elien. tenend. Ac Senescallo ejusdem Episcopi infra libertatem insul. præd. & eorum cuilibet, salutem.

Eborum beati Petri.

Senescallo Cur. libertatis Decani & Capituli Ecclesiæ & Metropolit. beati Petri Eborum in com. Ebor.

Episcopens. castrum Com. Salop.

Ballivo & burgenfibus Vill. castri Episcopenfis in com. Salop.

East-low.

Majori & burgenfibus burgi sui de East-low in com. Cornub.

East-Greensted.

Ballivo & burgenfibus burgi sui de East-Greensted in Com. Suffex, salutem.

Evermouth.

Majori & burgenfibus Vill. sue de Evermouth in com. Southampt.

F

*Forien. juxta Salop.***S**enescallo & Ball. Libertat. Forien. oriental. juxta vill. Salop.*Fleete.*

Gardiano prisone nostre de le Fleete, seu ejus locum-tenen. ibidem.

Le Fleete.

Gardiano prisone nostre de le Fleete, five ejus locum-tenenti ibid. salutem.

Farneham.

Ballivis burgi & vill. de Farnham in Com. Surry.

*Aliter.***S**enescallo Cur. Castri reverendi in Christo Patri Dom. L. Winton. Episcopi Manerii sui de Farnham in com. Surry.*Fordington.*

Ad Curiam Caroli Principis Walliz, ducis Cornub. & Eborum, & Comitris Cest. manerii sui de Fordington. in Com. Dorset.

Foway.

Præpositis & Burgenfibus burgi sui de Foway in Com. Cornub. salutem.

G

*Gipwicus.***B**allivis Villæ suæ Gip. in Com. Suff. salutem.*C. Glouc.*

Majori, Aldermannis, & vic. Civitatis nostre Glouc.

*Guilford.*Majori & probis hominibus vill. nostr. de Guilford.
Gravesend

Gravesend & Milton.

Præposit. Jur. & capital. Inhabitant. villarum &
Paroch. de Gravesend & Milton in Com. Canc.

East-Greensted.

Ballivo & burgensibus burgi sui de East-Greensted
in Com. Suffex salutem.

Gipwicum or Ipswich.

Ballivis Vill. suæ de Gipwico in Com. Suff. salutem.

Gatehouse Westminster.

Custodi nostro de le Gatehouse infra Westmona-
sterium.

Gillingham.

Senescallo cur. sue de Gillingham in hundred. de
Gillingham in Com. Dorset. hac vice sede Archiepisc.
Cantuar. jam vacante, seu ejus deputat. ibid. salu-
tem.

Glastonbury.

Cur. libertatis Dom. Regis de Glastonbury in
Com. Somerset.

Aliter.

Cur. Dom. Regis xij. Hidari de Glaston. libertatis
in Com. Somersf.

Goodrich.

Ballivis W. M. Armig. & B. H. gen. Manerii sive
Dom. sui de Goodrich in Com.

Crampound, or Crampound.

Majori & burgensibus burgi sui de Crampound in
Com. Cornub.

Grimsbie.

Majori & Burgensibus Vill. sue Magni Grimsbie in
Com. Lincoln.

Grantham.

Aldermanno & Burgensibus vill. sue de Grantham
in Com. Lincoln. salutem

Gatton.

Burgensibus Burgi sui de Gatton in Com. Surry.

Hrooving

H.

*Havering at Bower.***S**enescallo & sectatoribus cur. Manerii nostri de Havering at Bower.*Havengate Bower.*

Senescallo & sectatoribus dominæ Annæ Reginae Angl. consortis sue præcharissime.

Heston.

Majori & ballivis burgi nostri de Heston in com. Cornub.

Heref. C.

Majori, Aldermannis & Civibus civitatis nostri Heref. Harwich.

S. Majori & Senescallo burgi Herwici.

Higham Ferrers.

Majori & Aldermannis Vill. nostr. de Higham-Ferrers & eorum cuilibet.

Hunt.

Ballivis vill. nostr. Hunt.

Henly super Thames.

Ballivis Gardian. Pontinariorum, burgensium & civitatis vill. de Henly super Thames.

Herts. vill.

Majori & capitall. burgens. burgi nostri de Herts. necnon Senescalio Cur. nostr. de Record. ibidem.

Hexham.

Senescallo Cur. sue de Hexham in com. Westmerl.

Aliter.

Senescallo Manerii nostri de Hexham in com. Westm.

Harbil.

Ad Wapentagium nostrum de Harbil. in com.

*Hartpoole.*Majori & Burgensibus burgi sui de Hartpoole infra
Episco

Episcopatum Dunelm.

Heydon in Holdernes.

Majori & Ballivis Vill. sue de Heydon in Holdernes
in com. Ebor.

Hunnington burgus in Com. Southampt.

Hatfield.

Ad Curiam manerii nostri de Hatfeild in com.

Helston.

Majori & Burgenſibus burgi nostri de Helston in
com. Cornub.

Heref. Pal. Episcop.

Ad Curiam S. Episc. Hereford Palatii Heref.

Henley super Thamesin.

Ballivis, Gardian. Burgenſibus & communitat.
Vill. de Henley super Thamesin in com. Berks, sa-
lutem.

Haselmere.

Burgenſibus burgi sui de Haselmere in com. Surry.

Horſham.

Majori & Burgenſibus burgi sui de Horſham. in
com. Suffex, salutem.

Heitisbury.

Ballivo & Burgenſibus burgi sui de Heitisbury in
com. Wilts, salutem.

J

Inſul. Elien.

Justic. nostr. ad placita infra inſul. Elien. in com.
Cantabr. tenend. assign.

Jernemouth.

Ball. Ville ſive burgi & libertat. ville ſive burgi
magne Jernemouth (alit.) ballivis vill. nostr. magni
Jerm.

Jernem. salutem.

Justiciariis ad placita.

Jacobo Ley militi Capital. Justic. nostro ad placita coram nobis tenend. assignat.

Justic. de Banco.

H. A. Militi & Baronetto Capitali Justic. nostro de Banco.

St. Johannis Beverlacie.

Senescallo Cur. libertatis Ante placitorum Sancti Johannis Beverlacie in Com. Ebor. salutem.

St. Ives.

Præposit. & Burgenfibus Burgi sui de St. Ives in Com. Cornub.

St. Jermyns.

Præposit. & Senescallo Burgi de St. Jermyns in Com. Cornub.

K

Kingston super Hull.

Majori & Vic. Vill. nostr. de Kingston super Hull.

Kingston super Thames.

Ballivis & Senesc. Cur. vill. nostr. de Kingston super Thames; & in absente. dicti senesc. Ball. & Recordator. ejusdem Vill. sive duobus eorum.

S. Katherine ff.

Senescall. Magistr. sive custod. Hospital. sive libere Capell. Sanct. Katherine prope Turrim London. in Com. Midd. seu ejus locum-tenen. ibidem.

Aliter.

Senescall. Libertat. Magistr. fratrum & sororum & Capell. in Ecclesiæ Hospitalis Sanct. Kather. Virginis & Martyris prope Turrim London Cur. nostr. ibidem, necnon Ballivo ejusdem.

Kerby Kendal.

Aldermanno, Recordat. & Burgenf. Burgi de Kerby.

Kings

Kings-Norton.

Senescallo Ballivo ac sectatoribus Cur. Manerii de
Kings-Norton in Com. Wigorum, & eorum cuilibet,
salutem.

Kendal.

Ballivis maner. nostr. de Kendal in Com. Westmerl.

Knaresborough.

Senescallo Cur. Honoris de Knaresborough in Com.
Ebor. parcell. Ducat. nostri Lancastr.

Kellington burgus.

in com. Cornub.

L.

Lyn Regis in Norf.

Majori & Recordatori Ville five Burgi de Lyn
Regis in com. Norf. & eorum utrique.

London.

Majori, Alderman. & Vic. London salutem.

Lyn Epi.

Majori Ville de Lyn Epi.

Litchfield ff.

Ball. Libertat. Litchfield. Un. Vic. in com. Staff.

Lincoln.

Majori Vic. & Civibus Civitat. sue Lincoln.

Lidiford.

Majori & Burgens. burgi de Lidiford.

Lanceston, al. Downhevet.

Majori & communitat. burgi de Lanceston, alias
Downhevet.

Ludlow.

Ballivis ville de Ludlow.

Lyn Regis in Dorf.

Majori villæ nostræ de Lyn Regis in Com. Dorf.

Liscaret alias Liskerd.

Majori & burgens. burgi de Liscaret alias Liskerd.

Lincoln.

Ball. Decani & Capitul. Ecclesiæ Catholic. beate Mariæ Lincoln. Cur. sue Baole infra clausum ibidem.

Leicestr.

Majori, ballivis & burgens. burgi sui Leic.

Lancastr.

Cancellar. nostro Com. Palatini nostri Lancastr. vel ejus locum-tenen. ibidem, vobis mandamus quod per breve nostrum sub sigillo Com. Palatin. nostri præd. debit. conficiend. mand. fac. vic. com. præd. quod, &c.

London Counters.

Majori, Aldermannis ac vic. London, & eorum cuilibet, salutem.

Leicestr.

Majori & Burgensibus Ville Leicestr.

Leoni.

Ballivo & burgensibus de Leoni in com.

Ledbury.

Ballivo suo burgi sui de Ledbury in com. Necnon judicibus cur. ejusdem burgi, salutem.

Lugharnes.

Ad curiam R. H. armig. de Lugharnes in com.

Lugwarden.

Ballivis T. B. armig. manerii sui de Lugwarden in com.

Leominster, which I take for Lempster.

Ballivis & burgensibus burgi sui de Lempster in com. Heref. salutem.

Lugburgh.

Ad hundred de H. B. milit. & baronetto de Lugburgh in com.

Loughwich.

Loftwich.

Majori & Burgenſibus burgi ſui de Loftwich in com.
Cornub. ſalutem.

Lancaſter burgus.

Majori & ballivo burgi ſui Lancaſtr. in com. Lanc.

Leverpool.

Majori & Aldermanno Vill. ſue de Leverpoole in
com. Lancaſtr. ſalutem.

Lewes.

Conſtabulario & burgenſibus burgi ſui de Lewes in
com. Suffex, ſalutem.

Ludgerſhall.

Burgenſibus burgi ſui de Ludgerſhal. in Com.
Wilts, ſalutem.

Lymington.

Majori & burgenſibus burgi ſui de Lymington in
com. Southampt. ſalutem.

M

Maidſtone.

Majori vill. ſive Parochiæ de Maidſtone.

Marleberge.

Majori & Burgenſ. Burgi & vill. de Marle-
berge in Com.

Maldon.

Ballivis Vill. ſue de Maldon in Com. Effex.

Maidenhead.

Gardiano, Pontinariis, Burgenſ. & Communalitat.
Ville de Maidenhead in Com. Berks.

Melcomb Regis.

Majori Vill. ſue de Melcomb Regis

Weymouth & Melcomb Regis.

Majori, Aldermannis, Ballivis, Burgenſ. & Commu-
nalitat. Vill. de Weymouth & Melcomb Regis in
Com. Dorſ.

Myne.

Mynhead.

Præposit. & Burgens. Burgi de Mynhead in Com.
Somerf.

Monmouth.

Majori & Ballivis vill. sue de Monmouth.

Marr. Mares.

Marr. Mares. nostr. in curia nostra coram nobis.

Mar. hospic. nova Cur.

Senescallo cur. Marescal. Hospitii nostri ac Marr.
nostro ejusdem Hospitii, necnon Judicibus Cur. virge
Hospitii præd. & eorum deputat. ibidem.

St. Martins le Grand London.

Senescallo Decani & Capituli Ecclesie Collegiat.
beati Petri Westm. Cur. libertatis sue sive Præcinct.
Sancti Martini le Grand London, & Constabular. ibi-
dem, salutem.

Mar. hospic.

Judicibus cur. virge hospitii nostri, vel ejus depu-
tat. ibidem, salutem.

Mandeville.

Senescallo & Ballivo honoris de Mandeville parcell.
Ducar. Lancast. salutem.

Midhurst.

Ballivo & Burgensibus Burgi sui de Midhurst in
Com. Suffex, salutem.

Malton.

in Com. Eborum.

Marden.

Ballivis suis manerii de Marden, alias Mawrden,
alias Mawarchin in Com.

Magor & Redwiche.

Ad curiam E. Comit. Wigorum de Magor. & Red-
wiche in com.

Malmesbury.

Aldermannis & Burgensibus Burgi sui de Malmes-
bury in com. Wilts, salutem.

Morpeth.

Morpeth.

Ballivis & burgensibus burgi sui de Morpeth in com.
Northumb.

Michael.

preposit. & communitatibus burgi sui Michaelis in
com. Cornub. salutem.

St. Mawes, alias St. Maries.

Majori Ville sue St. Mawes, alias St. Maries in com.
Cornub. salutem.

N

Newport.

Majori & ballivis ville sive burgi de Newport.

Novum Castr. super Tinam.

Majori Alderman. & vic. ville Novi Castri super
Tinam.

Northton.

Majori & ball. ville nostre de Northton.

Newark super Trent.

Alderman. & assisten. inhabitant. ville & Parochie
de Newark super Trent, in com. Nott.

Norwici.

Majori & Vicomitibus civitat. Norwici vic. com.
Norff.

Nott.

Majori Aldermannis & vic. ville Nott. 2. vic.

Newberry.

Majori Aldermannis & burgens. burgi de Newberry
in com. Berks.

Civitatis Norwici.

Majori Vic. & Aldermannis civitat. nostre Nor-
wici, & eorum milit.

Novi Castri subtus Line.

Majori & burgensibus burgi sui Novi Castri subter
K **Linam.**

Linam in com. Staff.

Newton.

Ballivo & burgensibus burgi sui de Newton in com. Lancast.

O

Oswestr.

BAllivis & burgens. ville de Oswestr.

Oxon.

Majori & ballivis civitatis Oxon.

Orford.

Majori & Portmams ville de Orford.

Oxon Universitas.

Vice-cancellario Academie Oxon.

P

Poolc.

MAjori Ville de Poolc, & seniori ballivorum ejusdem ville.

Plymton-Morris.

Majori ballivis & burgens. burgi sui de Plymton-Morris.

Peterborough.

Senescallo curie Decani & Capituli Ecclesie Cathedral. civitatis de burgo Sancti Petri, & burgens. ejusdem civitatis, & eorum cuilibet.

Plymouth.

Majori & Communitati burgi sui de Plymouth.

Pawnton.

Senescallo & ballivis manerii sui ville de Pawnton.

Portsmouth.

Majori Aldermannis & burgens. ville de Portsmouth

South, in com. Suth.

Curie Palacii.
Judicibus curie Palacii nostri Westm. & eorum cul-
bet.

Pevensey.

Ballivo libertatis Ducat. sui Lancastr. infra ripam
nam de Pevensey in com.

Penwith.

Senescallo & ballivo hundred & libertatis sue de
Penwith in com. Cornub.

Padstowe, alias Petrockslow.

Majori & burgensibus burgi nostri de Padstowe in
com. Cornub.

Portland.

Ad curiam manerii sui de Portland in com. Dorset.

Portpigham or Porthighsam, alias Westlowe.

Majori & burgensibus burgi sui de Portpigham alias
Westlowe in com. Cornub. salutem.

Pymberne.

Ad hundred. Willelm. comitis Sarum de Pymberne
in com.

Preston Andernes.

Majori & ballivis ville sive burgi sui de Preston in
com. Lancastr.

Pembrig.

Ballivo & senescallo ville sive burgi de Pembrig in
com.

Petersfield.

Majori & Communitatibus burgi sui de Petersfield
in com. Southamp. salutem.

Parke.

Senescallo R. W. armig. manerii sui de Parke Let-
tys, alias Parte Lettys in com.

Pontfract.

Majori ville sue Pontfract. in com. Ebor. parcell.
Ducat. sui Lancastr.

Pickering.

Ballivis & sectatoribus curie nostre de Pickering
in com. Ebor.

Quinborough.

Majori & burgensibus burgi sui de Quinborough in
com. Kanc. salutem.

*Ryallton.**Ryallton.*

Senescallo & ball. cur. manerii de Ryallton.

Reading.

Majori, Aldermannis, & burgens. burgi de Rea-
ding.

Rillaton.

Senescallo, Decemar. & preposit. ac liberis Tene-
ribus manerii sui de Rillaton parcell. ducat. sui
Cornub.

Richmond in com. Ebor.

Aldermannis Recordatori & burgens. burgi nostr.
de Richmond in com. Ebor.

Roffen. G.

Majori & civibus civitatis nostre Roffen.

Palatum Roffen.

Senescallo Reverend. in Christo patri Jo. Episc.
Roffen. cur. Palatii sui Roffen. salutem.

Rumney Marsh.

Ball. & Jurat. de Rumney Marsh. in com. Kanc.

Rippon.

Senescallo & ballivis libertat. cur. Canon nuper
Canonicorum & capituli Ecclesie Collegiar. de Rip-
pon in com. (Eborum) parcell. Ducat. nostr. Lanc.

Inquit

(Inquire if more Rippond.)

Rye-gate.

Ballivo & burgensibus burgi sui de Rye-gate in com. Surrey.

Salop.

Ballivis ville nostre Salop, salutem.

Le Strand.

Ballivo libertat. Ducat. Lancaster in le Strand in com. nostr. Midd.

Saltafsh.

Majori & liberis burgens. sui de Saltafsh.

Southould.

Ballivis ville nostre de Southould, aliter ballivis & burgens. libertat. ville de Southould.

Southmoulton.

Majori & capitul. burgens. ville sue Southmoulton.

C. Nove Sar.

Ball. libertat. Episc. Sar. civitat. Nove Sar.

Staff.

Ball. & burgens. burg. de Staff.

Sudbury.

Majori Aldermannis burgens. & senescallo burgi five ville de Sudbury, & eorum cuilibet.

Manerium de Southwark.

Senescallo curie libertat. Reverendi in Christo Patris B. Winton Manerii sui de Southwark in com. Surrey.

Compter in Southwark.

Senescallo curie libertat. Majoris communiat. ac civ. civitatis London burgi sui de Southwark.

Scarborough.

Ballivis ville nostr. Scarborough.

Southton Ville.

Majori & ball. ville Southton.

Aliter.

Majori & ball. ville nostre Southton curie sue
pedis pulverizat. ibidem, necnon custod. Gaule nostre
infra eandem villam ejusdem deputat. ibidem, &
eorum cuilibet.

Aliter.

Vic. Suthr. necnon custod. Gaule nostri castri V Vin-
ton. ac civit. nostre V Vinron.

Shafton.

Majori Recordatori & burgens. burgi de Shafton
in com. Devonis.

Stoke-Clunland.

(Tali Dom.) Gardiano Stannar. Devon. & Cor-
nub. & capitul. senesc. ducatus sui Cornub. aut suo
deputat. ibidem, & precipue sibi aut suo deputat. se-
nescallo infra Maner. de Stoke-Clunland parcel. du-
cat. Cornub. pred. infra com. Cornub. pred. salutem.

Supremis Commissionarum Cantuarum provincia.

Reverendissimo in Christo Patri G. providentia
Divina Cantuar. Archiepiscop. primar. & Metropo-
litano, ac aliis supremis Commissionar. regis ad cau-
sis Ecclesiasticis internal. sub magno sigillo Anglie le-
gitime & sufficient. autoritat.

Steford East, or East-Stratford.

Ballivis ville sue de East-Stratford in com. Nott.

Slaughter.

Senescallo ballivo, & liberis scetatoribus libertatis
hundredi nostri de Slaughter in com. Gloc. salutem.

Le Savoy extra Temple-Bar.

Ballivo libertatis sue Land. de Savoy in com. Midd.
salutem.

Spirituali curiam.

J. L. Legum Doctori ac Audientie Reverendissi-
mi in Christo patris G. Archiepiscop. Cantuar. totius
Anglie



Compt Solicitor

Anglie primat. & Apostolici sedis legalis causarum &
negotiarum auditori.

Sheyborn.

Ad curiam hundred. de Sherbon in com. (Dorset.)

Stevinheath.

Senescallo prenobilis T. W. manerii sui de Ste-
vinheath.

Stepleton.

Senescallo curie T. C. militis, manerii sui de Ste-
pleton in com. ()

Snaith.

Ad curiam nostram de Snaith in com. ()

Aliter.

Ballivis & sectatoribus curie manerii nostri de
Snaith parcell. Ducat. Lanc.

Sheffield.

Ad curiam C. comitis Salop. de Sheffield in com.
()

St. Jermins.

Preposit. & senescallo burgi de St. Jermins in com.
(Cornub.)

Stamford.

Aldris & burgensibus ville sue de Stamford in com-
Lincolne.

Stockbridge.

Ballivo & burgensibus burgi sui de Stockbrige in
com. Southron.

Stayning.

Constabulario & burgensibus burgi sui de Sreyning
in com. ()

Shoreham.

Constabulario & burgensibus burgi sui de Shore-
ham in com. Lanc.

Sarum vetus.

Burgensibus burgi sue veteris Sarum in com.
Wilts.

Shaftbury.

Majori & burgensibus burgi sue de (Shaftbury) in com. Dorset.

Vide an sit Shafton in Shaftbury.

T*Turris London.*

Williclmo Ward Militi Constabular. seu locum tenen. Turris London, necnon senescallo curie ejusdem, & eorum utrique.

Torrington magna.

Majori Aldermannis & burgens. burgi five ville de Torrington magna.

Aliter.

Majori Aldermannis capital. burgens. & senescallo burgi five ville de Torrington magna in com. Devon.

Tavestock.

Senescallo five ballivo F. comit. Bedf. liberrat. sue de Tavestock.

Thacksted.

Majori ballivis & communitat. burg. de Thacksted, eorum cuilibet, salutem.

Thetford.

T. C. comit. S. capitali senescallo ville nostre de Thetford parcel. Ducat. nostri Lancast. vel ejus deputat. ibidem.

Tolleboth.

Ball. de le Tolleboth ville de Lyn Episc.

Aliter.

Ball. cur. de le Talloth. ville de Venner Episc.

Tornes.

Majori de burgens. burgi. de Tornes, & eorum cuilibet.

Taunton

Taunton.

Ballivo Reverend. in Christo Patr. T. Episcopi
Winton libertat. sue de Taunton & Taunton-Dean.

Tewksburgh.

Ball. burgens. & communitat. burgi sui de Tewks-
burgh.

Thetford.

Majori & Recordatori burgi nostri de Thetford in
com. Norf.

Tamworth.

Ballivo ville nostr. de Tamworth.

Thremalton.

E. H. Preclari Ordinis Garterii Militi dom. Ha-
sting de Loughborough capital. senescallo nostro du-
cat. nostri Cornub. necnon seod. & Manerii de Thre-
malton; sive ejus deputat. ibidem, salutem.

Trebenin aliis Boffiny.

Majori burgensibus burgi sui de Trebenen aliis
Boffiny in com. Cornub.

Truro.

Majori & burgensibus burgi sui de Truro in com.
Cornub.

Tregoni.

Senescallo & ballivo H. P. Manerii sui de Trego-
ni P. in com. Cornub.

Trellock.

Majori & ballivis W. comitis Pembroke ville sue
de Trelock in com. (Cornub.)

Tregony.

Ad curiam A. W. arm. de Tregony in com. Cor-
nub.

Tickhill.

Ad curiam nostram honoris nostri de Tickhill in
com. (Ebor.) parcel. Ducat. sue Lanc.

Turman-hall.

Ad curiam W. B. manerii sui de Turman-hall, in
com.

com.

(

)

Trennaton.

Charissimo consanguineo ac predilecto & fideli consiliario nostro Willielmo comiti Pembroke, Domino camerario hospitii nostri, prenobilis ordinis Garterii milit. capital. senescallo Ducat. nostri Cornub. Necnon feod. & manerii de Trennaton in com. Cornub. sive ejus deputat. salutem.

V.

Uske.

Prepositis & ballivis ville sive burgi de Uske.

W.

C. Westm.

Ballivo libertat. Decani & Capituli Ecclesie Collegiat. beati Petri VWestm.

Wallingford.

Majori Alderm. & Recordatori burgi sive ville de Wallingford.

Wenlock.

Ball. & Senesc. ville & libertat. de Wenlock magna.

Warwick.

Ball. & Recordator. burgi nostri VVarwici.

Worlow.

Ball. ville de VVenlow.

Wye.

Senescallo & ball. H. C. Nobil. ordinis Garterii Mil. Dom. Hunsdon Reg. Maner. de VVye in com. Kanc. & eorum cuilibet.

Wigorn. C.

Ballivis Alderm. & Camerar. civitat. nostre Wigorn.

Wigmore.

Senescallo & ballivo ville sive burgi de Wigmore.

Nova

Nova Windsor.

Majori ball. ac burgenf. ville five burgi noſtri de
ova Windsor in com. Berks.

Aliter.

Majori Alderm. ballivis & ſubſenefcallo burgi de
ova Windsor.

Castrum Wind.

T. C. conſtabular. Honoris & caſtri ſui de VVind-
or, ac cuſtod. Forest. ejusdem, aut ejus locum tenen-
e ejus deputat. ibidem.

C. Winton.

Majori, Recordatori, vel ejus deputat. & ball. ci-
tat. noſtre VVinton, & eorum cuilibet.

Woodstock.

Majori ville ſue de Nova VVoodſtock.

Aliter.

Majori & Communitat. burgi Nova VVoodſtock.

Cur. Waittel.

Ballivis & ſectatoribus curie ſue de VVaittel.

Castr. Windsor.

Carolo comiti Nottingham, Baron Howard de
ffingham, preclari Ordinis Garterii Milit. magno
Admirallo Angl. conſtabular. honorum Caſtri Dom.
egis de VVindſor, ac cuſtod. totius Forest. ibidem,
anitori extr. portum dicti Caſtri, ſalutem.

Westmon. Dean and Chapter.

Ballivo libertat. Decani & Capitulis Eccleſie colle-
gat. beati Petri VVeſtm.

Wellen curia Episcop.

Senefcallo five ballivo curie reverendi in Chriſto
patris J. Bathon. & VVellen Episcop.

Wellen burgum.

Senefcallo five ballivo curie noſtre de placit. ad re-
verend. in Chriſto Patrem Dom. J. permiſſione Divi-
a Bathon. & VVellen. episc. perſon. five conceſſ.
enr. apud Guild-hall infra burgum & Villam noſtram
& VVelles in com. noſtro Som merſet.

Wooron.

Wotton Bassett.

Majori & burgensibus burgi de Wotton Bassett in com. Wilts, & eorum cuilibet.

Wike Regis.

Ad curiam dom. Regis Manerii sui de Wike Regis in com. ()

Worham.

Majori & burgensibus burgi sui de Worham in com. Dorset.

Wormlowe.

Ballivis A. dom. Chandos & E. B. arm. Manerii five hundred de Wormlowe in com.

Wickome.

Ball. ()
Wickome in com. Buckingham. Inquire Chipping Wickome before.

Wilton super Wian.

Ballivis A. B. arm. Manerii five dom. de Wilton super Wian in com. ()

Wentworth liberty near London.

Ballivo Libertatis Thome dom. Wentworth in com. Midd.

Walsal.

Ballivis Manerii sui de Walsal in com. () salutem.

Whitchurch.

Majori & Communitatibus burgi sui de Whitchurch in com. Southam.

Westbury.

Majori & burgensibus burgi sui de Westbury in com. salutem.

Aliter Hackney & Stepney.

Ballivo libertatis Manerior. de Hackney & Stepney in com. Midd.

Special Directions.

Monmouth Escaetori.

E Scaetori ac vic. Monmouth, necnon ballivis singulisque ministris nostris, tam infra Libertatis quam extra, & eorum cuilibet.

Justic. insul. Elien.

J. Justic. Episc. Elien ad placita infra insul. Elien tenend. ac Senes. Epi. intra libertatem insule prædict. & eorum cuilibet.

Custod. pacis infra libertatem.

J. Custos pacis sue infra libertatem ville Sanct. Albani in com. Hertf.

Justic. ad Gaole delib.

J. Justic. nostris ad Gaole nostram Castri Lincoln. de prisonariis in ea existen. deliberand. assign. salutem.

Vic. & Custod. Gaol.

J. Vic. Lincoln. & custod. Gaole Castri nostri Lincoln. sive ejus locum tenen. aut deputat. ibidem, & eorum cuilibet.

Justic. Foreste.

J. Dilecti. & fidel. suo W. comiti C. Justic. suo omnium Forestarum suarum citra Trenta, vel ejus locum tenenti infra Foresta sua de Walton.

Justic. ad Affias Custod. pacis a vic.

J. Justic. suis ad affias in com. W. ac custod. pacis in eodem com. necnon vic. ejusdem com. & eorum cuilibet.

Justic. ad affias & Justic. ad Gaol delib.

J. Justic. suis ad affias in com. S. & Justic. nostris ad Gaol nostra Castri nostri de L. delib. assign.

Custod. pacis infra libertatem.

J. Custod. pacis Thome Archiep. Eborum infra libertatem suum Rippon.

Custod.

Custod. bre

ff. Dil. & fideli nostro T. L. A. Custod. Brevium
nostrorum de com. Banco.

Custod. Gaol.

ff. Custod. Gaol. castri sui Eborum, aut ejus deputat. & eorum utrique, salutem.

Majori London, ac Justic. ad Newgate, & vic.

ff. Di. & fidelibus nostris A. B. Majori civitat. London, Sociis suis Justic. nostris ad Gaolam nostram de Newgate de Prisonar. in eadem existen. delib. assign. ac vic. ejusdem civitat. & eorum cuilibet, salutem.

Escaetori & Vic.

ff. Escaetor nostri ac vic. ejusdem com. necnon omnibus ballivis singulis que ministris com. predicti, tam infra libertatem quam extram, & eorum cuilibet, salutem.

Majori Alderis vic. London, ac deputat. Alderorum & Constabulorum, &c.

ff. Majori Alderis & vic. London, ac omnibus & singulis deputat. Aldermanorum, Constabularum & aliis ministris nostris infra libertate civitatis London, & eorum cuilibet, salutem.

Locum tenent. com. & Capitaneis.

ff. Depurat. locum tenentis com. nostris Suff. ac omnibus & singulis Capitaneis in eodem com. Assign. & eorum cuilibet, salutem.

Omnibus Justic. majoribus, ballivis ac al. officiariis.

ff. Universis & singulis Justic. majoribus, ballivis, vic. comitibus, Constabulariis, officiariis, ministris, & fidelibus & quibuscunque, tam infra libertates quam extra, ad quos presentes brevis pervenerunt, salutem.

Custod. pacis vic. & omnibus senescallis & al. in com. Lincoln.

ff. Custod. pacis ac Justic. nostris ad diversas felonias, transgressionem, & alia malefacta in com. nostro Lincoln perpetrat. audiend. & terminand. assign. ac vic.

Lin.

Lincoln. Ac omnibus Senescallis & Secretariis curiam, & eorum cuilibet.

Epo Sarum.

Johanni eadem gra. Epo. Sarum, salutem.

Custod. specialis.

ff. F. A. Custod. spiritualitatis Epatus Sarum, sede Epali jam vacante, salutem.

Pleg. Justic. Cestr.

ff. Justic. suis Cestr. vel ejus locum tenenti, salutem.

Justic. ad Assias Regis.

ff. Dil. & fidelibus sui W. M. militi & T. Justic. om. E. nuper Regis Angl. quarti post conque. ad Assias in Son. capiend. assign. salutem.

Vic. Majoribus burgens. Sen. & aliis officiar.

ff. Vic. com. nostri B. necnon omnibus majoribus, burgensibus, Senescallis, ballivis, ac omnibus aliis ministris, tam infra libertates quam extra, in com. B. & eorum cuilibet.

Custod. pacis Justic. ad Assias & vic.

ff. Custod. pacis sue in com. Exon. ac Justic. sub diversis Felonias, transgressionibus & al. malefactam eodem com. audiend. & terminand. assign. ac Justic. suis ad Assias in com. predicto capiend. assign. necnon Justic. suis ad Gaola Castri Exon de prisonar. in eadem existen. deliberand. assign. ac vic. ejusdem com. & eorum cuilibet.

Majori Admirallo Southamton.

ff. Majori ville sue Southamton, ac Admirallo infra castas maris eidem ville ab antiquo partim.

Aldermano Warde & Collectoribus.

ff. Aldermano Warde Turris London infra civitatem nostram London, ac Collectoribus & Subcollectoribus xxxv nobis plegiis Regni nostri Angl. concess. civitate predict. & eorum cuilibet.

Justic. Foreste citra Trentam.

ff. Charissimo consanguineo suo H. B. comiti Essex, custod.

Custod. Forestę nostrę citra Trentam, vell ejus locum tenenti in Foresta nostra de Windsor.

Aliter.

J. Charissimo consanguineo suo *H. B.* comiti Essex Justic. Itinerant omnium Forestarum, Parcorum, Chascarum & Warrennarum nostrorum citra Trentam, vell ejus locum tenenti in Foresta nostra de Windsor.

Recordator. & parochianis

J. Recordatori & parochianis Ecclesie Sancti Andree Holborne in Suburbis London.

Custod. pacis & ur.

J. Custod. pacis sue in com. Som. ac vic. ejusdem com. & eorum cuilibet

Thesaur. & Bar. Scac.

J. Thesaurario & Baronibus suis Scaccario.

Prolocutori Parliamenti & unius Bar. Scac.

J. Dil. & fidelibus suis Hennagio Finch militi scire. en. ad legem, Prolocutori Parliamenti nostri, & Recordatori London; Thome Trevor militi unius Baronum de Scaccario nostro; & Johanni Hobart militi & Baronetto, Executoribus Testi Henrici Hobart Militis & Baronetti, nuper capitalis Justic. de Banco, salutem,

Justic. magne Sessionis Walla.

J. Justic. nostris magna Sessionis nostre in com. Biccet.

Titles of Religious Houses and Colledges.

Eaton.

J. Prepositus Collegii Regalis beate Marie de Eaton in com. Buck. Windsor; & idem Col. egin.

Exon.

J. Decanis & capitul. Ecclesie Cathedralis beati Petri Exon.

Emanuel Cantabr.

J. Magr. Socii & Scholar. Collegii Emanuelis in Univer.

Universitat. Cantabr.

Corpus Christi in Oxon.

ff. Prefec. & Scholar. Collegii Corpus Christi infra Universitatem Oxon. in com. Oxon.

Magdalen Oxon.

ff. President. collegii sanctæ Mariæ Magdalen in Universitate Oxon. & Scholar. ejusdem collegii.

St. Johns Jerusalem.

ff. Cuidem W. W. Miles nuper Prior sancti Johannis Jerusalem in Anglia, & ejusdem nuper Hospitalis cons. nuper fuerunt seisis.

Baliol Oxon.

ff. Magistro & Scholar. collegii de Baliol. in Universitate Oxon.

Heref.

ff. Decanus & capitul. Ecclesiæ Cathedralis Heref.

All-souls Oxon.

ff. Gardianus Socii collegii Animarum omnium fidelium & de sanctorum de Universitate Oxon:

Wigorum.

ff. Decanus & capitulum Ecclesiæ Cathedralis Christi & beate Marie Virginis Wigorum.

Christum Exon.

ff. Decanus & capitulum Ecclesiæ Cathedralis Christi in Exon. Et fundatione Regis Henr. octavi.

Windfor.

ff. Decanus libere.— Capelle Regie sancti Georgii infra Castrum sui de Windfor, & Canonici ejusdem Capelle.

Christi Colledge.

ff. Magistro sive custod. Collegii Corporis Christi & beate Marie Virginis, vulgariter nuncupat. Bennett. Colledge in Universitate Cantabr. ac Socii & Scholar. ejusdem Collegii. Hill, 10 Car. primi 1616.

Communities, Societies, and Brotherhoods of Cities and Burroughs.

Gardiani London.

J. Magistro Gardiani assistan. & communitat. Gardinarum civitatis London.

Sarum.

J. Majori & communitas civitatis Sarum.

Grocer London.

J. Ad respondend. custod. & commun. magistro Grocer. civitat. London. Mich. 43 Car. Rot. 440.

Major & communitas London.

J. Ad respondend. majori & communitati ac civibus civitat. London. M. 3 Car. Rot. 1331.

Parishes and Wards in London.

Cheapside.

J. IN parochia beate Marie de Arcubus in warda de Cheape.

Lumbardstreet.

J. In parochia omnium sanctorum in Lumbardstreete in warda de Bishopsgate.

Sepulchres.

J. In parochia sancti Sepulchri in warda de Farringdon extra.

Dunstons West.

J. In parochia sancti Dunstani in occiden. in warda de Farringdon extra.

Woodstreete.

J. In parochia sancti Michaelis in Woodstreet in warda de Cripplegate.

St Martins.

J. In parochia sancta Martini in warda de Farringdon extra.

Fanchurch-street.

§. In parochia sancti Dionysii in *Fanchurch-street*
in warda de Langborne.

Queenhith.

§. In parochia sancti Michaelis apud *Queenhith*
in warda de *Queenhith* London.

St. Olaves.

§. In parochia sancti Nicholai Olavi in warda de
Queenhith.

St. Faiths.

§. In parochia sancta Fidis in warda de *Farring-*
don infra.

Little St. Bartholomewes prope le Regal. Excambium.

Apud le Northgate Regalis Excambii, in parochia
sancti Barthol. parvi prope Regale Excambium in
warda de Broadstreet. Hill. 20 Car. primi Rot. 383.

St. Lawrence old Jury.

§. Inquisitio capr. Guild-hall civitatis London, si-
tuat. & existent. in parochia sancti Laurencii in vetesi
Juro, in warda de Cheape London.

St. Pauls.

§. Apud Ecclesiam Cathedralem Divi Pauli Lon-
don in warda de *Farringdon* infra.

St. Magnes.

§. In parochia sancti Magnetis in warda de *Bridge-*
ward London. Patch. 3 Car. Rot. 1205.

St. Anne.

Devotum sancti Anne in warda de *Farringdon* infra.

Cities and Towns which have Sheriffs.

The City of	{ Bristol.	two.
	{ Coventry.	two.
	{ Cantuar.	one.
	{ Ebor.	two.
	{ Exon.	two.
	{ Glouc.	two.
	{ Lichfield.	one.
	{ Lincoln.	two.
The Town of	{ London.	two.
	{ Norwic.	two.
	{ Wigorn.	one.
	{ Kingst. super Hull.	one.
	{ Southampton.	one.
	{ Nottingham.	two.
	{ Poole.	one.
	{ Nov.cast.sup. Tinam.	one.

SECT. IX.

Of suing an Attorney or privileged Person.

AN Attorney or other Clerk or Officer, cannot be arrested as a common person, either upon a *Capias*, or any other common process; nor cannot be sued in any other court; but is privileged from arrests. But when a common person would sue an Attorney or privileged person, the course is to file a Bill against him, which must be ingrossed in parchment, and a Declaration drawn, and the copy thereof the defendant must take, and set his hand to the bill for his appearance. And if he refuseth to take a copy and set his hand to the bill, the plaintiffs Attorney may call him in court, and give him a rule to appear; and if he appear not, enter a forejudger against him with the Clerk of the Warrants; and being forejudged the court, he loseth the benefit of his privilege, and may be arrested as a common person. But the bill and declaration must be tendered unto him in the Term-time; for he may refuse it after the Term, and then you cannot forejudge him.

After the defendant hath appeared and accepted the declaration, the Attorney for the plaintiff is to file the bill the same Term at the *Custos breviarum*; and if the plaintiff require answer, the Attorney is to plead forthwith. For Attornies are to answer *de die in diem*, because they are intended to be always in court: and if he pleads not, the plaintiffs Attorney may enter up Judgement against him, and take out execution against him, by which he cannot be defended from any privilege.

Nevertheless an Attorney or other priviledged person may be sued to the *Outlawry*, without any mention in the Writ that he is an Attorney: and if he appear not by *Supersedeas* to the Exigent, he may be Outlawed, and is lyable to a *Capias* *utlagat*. And if he do appear, the plaintiff declares against him as a common person, without any mention that he is an Attorney.

But if an Attorney arrest a common person, his usual proceeding is by an attachment of priviledge, and not by *Capias*; and in all cases he may stand upon special bail: which attachment of priviledge he is to enter in the remembrance in the office where he enters, and to mark upon the remembrance, *quer. pet. bonos manucapt.* if he intend to have special bail; and he ought also to mark his Writ thus: *Quer. pet. bonos manucapt.* that the Sheriff may take notice he requires good bail.

An Attorney may refuse to serve in any Parish-office, as Constable, Churchwarden, Collector, Scavenger, &c. And if the Parish where he lives do chuse him, he may sue out his Writ of priviledge, which shall discharge him.

The form of which Writ of priviledge runs in this manner.

Carolus Dei gratia Angliæ, Scotiæ, Franciæ, & Hiberniæ, Rex, fidei defensor. &c. (Here be sure make the direction right) salutem. Cum ex Regali decencia nostra, & consuetud. in cur. nostra, & progenitorum nostror. de Banco, à tempore quo non extat memoria, usitat. omnes & singuli Justic. nostri eodem Banco, nec non omnes & singuli Officiarii, Clerici, Attorn. & ministri ejusdem Banci, qui nobis & populo nostro ministeria sua vinculo Juramenti impendere sunt distri& ad aliqualia Officia alibi quam in Banco predi& exercend. per quæ à cur. nostra predi& retrahi possint, juxta cur. præd. libertat. & privileg.

privileg. à tota tempore, præd. usitat. & approbat. in nostre dignitatis honorem, trahi, elegi, seu compelli non debeant; vos tamen, vel aliquis vestrum, ad dignitatem, honorem, & privileg. præd. considerationem non habentes, R. T. Gen. unum Attorn. cur. nostra de Banco præd. in Officium un. Scaveng. Anglicè Scavengers Libertat. S. M. le Grand eligere importune intend. ut informamus. Quod si permitteretur in nostro & ligeor nostror. & in cur. nostra præd. prosequend. & defendend. & ipsius R. perditum caderet manifeste, prout idem R. supplicand. premissa nobis intelligi dedit. Ac nos Supplicationi ipsius R. annuentes, ac cur. nostra præd. statum, libertat. & privileg. inviolabile observari volentes, precipimus vobis & vestrum cuilibet, quod prefat. R. in Officium præd. elegi seu constitui minime faciat: Et si ante advent. istius Brevis idem R. in Officium præd. elect. fuit, tunc ipsum R. ab Officio illo exoneretis, & penitus exonerari facietis, periculo incumbente. Teste, &c.

Likewise if an Attorney be impleaded in any other Court but where he is an Attorney, he may bring his Writ of priviledge, and it will discharge him.

There form whereof follows.

Rex Majori & Ballivis Civitat. sue Winton in com. Southt. & eorum cuilibet, salutem. Ostens. est nobis ex parte R. T. unius Attorn. de com. Banco, quod cum ipse com. Banco præd. existat, & diversa negotia plurimorum ligeorum nostrorum in eodem Banco prosequend. & defend. ut eorum Attorn. prosequend. & defend. idemq; R. & omnes alii Attorn. in Banco præd. pro magistris & Clientibus suis prosequend. vel defend. ad respondend. coram aliquibus Judicibus secularib. de aliquibus Placitis præterq; coram Justic. nostris de Banco præd. (Felon. & Appellis, & Placite de liber. tenemento duntaxat exceptis) trahi & compelli non debeant, nec à tempore quo non extat memoria consueverunt: quidam tamen malevoli privilegia

cur. nostr. præd. nescient. apud R. coram vobis trahere in placitum proponunt ut accepimus, & per ministros vestros sum. attach. & distingere intend. in ipsius R. grave dampnum, et plurimor. ligo. nostror. in cur. nostra præd. prosequunt. et defendunt. quor. Attorn. idem R. existit periculum manifestum. Unde nobis supplicaverit sibi de remedio congruo in hac parte provideri. Ac nos volentes idem R. fieri quod est justum, et consonans rationi, ac libertates et privilegia cur. nostræ præd. inviolab. observari, vobis et cuilibet vestrum precipimus, quod de omnimodis placitis et quærelis versus ipsum R. per quoscunq; coram vobis seu aliquo vestrum mot. seu movendis quibuscunq; nominibus parte censeant. in eisdem (except. præexcept.) supersed. omnino quærentib. in quærel. illis dicent. quod quærel. suas præd. in cur. nostra de Banco præd. Justic. ibid. prosequant. si sibi viderint expedir. T. &c.

Otherwise to discharge an Attorney and his bail.

Quidam tamen malevoli privilegii curiæ nostræ præd. nescientes, ipsum R. coram vobis trahi in placitum, ut accepimus, et per ministros vestros attachari fecerunt, in ipsius R. dampnum, &c. ut supersed. omnino, &c. ac ipsum R. una cum pleg. et manucapt. suis à curia nostra præd. sine dilatione liberè abire permittatis, quærentis in quærelis illis ex parte dicentes quod quærelas suas præd. in cur. nostra coram Justic. nostris de Banco præd. prosequant. versus præd. R. secund. debit. Legis form si sibi viderit. expedir. T. &c.

SECT. X.

The manner of suing forth a Fine.

First draw your Precipe in paper, then ingross it fairly in parchment with the Concord; and with the Conizor go to my Lord chief Justice, and there get it acknowledged.

The

The form of a *Precipe* in a Fine is thus :

S. N. *Precipe A. B. de L. Ar. & A. uxori ejus, quod juste, &c. teneant. R. T. Gen. con. &c. de manerio de T. cum pertinentiis, Ac de quinque Acris terre, quinque acr. prati, quadraginta solid. reddit. et com. pastur. et pro omnimod. Animalib. cum pertin. in W. et nisi, &c.*

Be careful to observe the form and order of placing the particulars in a Writ of covenant ; and with the *Precipe* in paper go to the *curfitor* of the County where the land lieth, and there get your Writ of covenant made ; which carry before it be sealed to the Alienation-office in the Temple, and there compound it ; and get it entred and indorsed : which being done, carry it back to the *curfitor*, who will get it sealed ; and that being done, put in your warrant of Attorney with the Clerk of the Warrants, who will signe your VVrit of covenant with a stamp for that purpose.

The form of the VVarrant of Attorney is thus :

S. N. *A. B. polo suo R. T. ad prosequend. bre. de con. versus T. R. de Terris et Tenementis in H. M. et T. &c.*

Then file your Writ and the *Precipe* and concord together, and carry them to Mr. Jones his office in the middle Temple, who returns the writ of covenant, and signs the same with his Stamp ; from thence remove it to the *Custos brevium*, who will do what belongs unto him therein, and indorse upon the Writ when the Proclamations shall be made, and from thence to the Kings Silver Office, who will perform what belongs unto it

it there. (And being once dispatched that office, is then a Fine in the force of Law.) Afterwards carry it to the Chirographer, and there the Clerk who belongs to the County where the lands do lie, will make your Indentures of the Fine, and then it is finished.

If you would acknowledge a fine at the Bar, then carry the Writ of Covenant sealed, and deliver it with the *Precipe* and Concord to one of the Sergeants at the Bar, (the Conizors being present.) And if any of them be a *feme Covert*, she must go from the Bar to the *Puisne* Judge, to be examined at the side of the Court: then take the *Precipe* and concord together, when the Court hath recorded it, paying the Fees of the Court.

Any Judge of the Common Pleas, Kings Bench, or Baron of the Chequer, may take the caption of a Fine, before the *Ded. potestatem* is sued forth; which you may sue forth afterwards, and carry it under seal to him that took the cognizance of the fine, who will return the same.

A fine may also be taken by special commission in the Country; which to do, you must deliver to the cursitor the commissioners names, one whereof must be a Knight; and the cursitor will make up the *Ded. potestatem* by the concord, and get it sealed for you.

Deliver the *Ded. potestatem* to the commissioners with the *Precipe* and concord ingrossed in paper, with wax and seals unto it; and when the cognizance is taken, they return it thus:

Executio istius commissionis patet in quadam Scheda huic brevi annex.

And file the concord to the back of the *Ded. potestatem*, and the commissioners set their seals to the concord, and their hands to the *Dedimus*; and the concord they do subscribe thus:

Cap.

Capit. & cognit. apud H. in com. S. decimo sexto die Martii, Anno Regni car. secundi Regis Septimo decimo, coram

Then when you have returned up your *Ded. potest.* carry it to the Curfitor, who will make you the *VVrit* of Covenant. And then pass the Fine as before is directed; only in this case you must carry it to a Judge of the Common Pleas for his *Allocat.*

Divers and various are the natures and forms of Fines, *Precipes* and *Concords*; I have therefore here furnished you with variety of Examples.

SECT. XI.

Forms of Writs of Covenant.

Writs of Covenant of common.

Precipe. &c. de tribus mes. &c. cum pertin. in D. et T. et de communia pastur' pro omnibus et omnimodis averiis, ac de pastura pro 400 ovibus cum pertin. in D. in parochia de C. Et nisi, &c.

Of Land and Sheepwalk.

Prec. &c. de uno mesuag. uno curtilagio, uno gardino, &c. ac v. li. reddit. cum pertin. in F. Nec non de libert. unius saldagii et cursu ovium cum pertin. in F. Et nisi, &c.

Of Wood. and Foldage.

Prec. &c. de centum aer. bosci cum pertia. in N. ac de libertate saldagii pro xl. ovibus cum pertin. in S. nisi, &c.

of

Of Wood.

PRec. &c. de &c. & quatuor virgar. bosci &c. in parochiis de B. & L. &c.

Prec. &c. de duab. partibus in tres partes dividend. viii. acr. terre, lx. acr. pastur^{us}, lx. acr. arundinarum, x. acr. marisci frisci, & maris. salsi cum pertinent. in D. &c. Et nisi &c.

Prec. &c. de Rector. impropriat. de H cum pertinent. ac de mediet. omnium decimar. granor. bladorum, garbar. & sceni, de terris vocat. le B. landas cum pertinent. in H. pred. &c. Et nisi &c.

Prec. &c. de maner. de &c. et x. s. redd' ac de libero faldagio ovium cum pertinent. in R. et de Hundred de L. Et nisi &c.

Prec. W. S. Militi domino M. quod ten. VV. C. Milit' principal. Secretar. dom. Reg. convenc. &c. de tertia parte 4 mes. 4 cotag. unius molend. x gardin. x pomar. 200 acr. terr. 200 acr. prati, 200 acr. pasture, 30 acr. mare, 30 acr. rurbar. et v. s. redd. cum pertinentiis in A. B. C. et D. ac de tertia parte Vis. francipleg. bonor. et catall. waviar. felon. fugitivorum, utlagat. in exigen. positorum, sel. de se, de odand. thesaur. invent. ac extrahur. cum pertinent. in M. &c. Necnon de 3. parte Rect. eccles. de K. cum pertin. Et nisi &c.

A Writ of Covenant and Tythes.

Sutht. ss. PRec. T. N. Milit. quod ten. T. P. convenc. &c. de proficuis granorum, sceni, lanæ et agnor. ac de omnimod. aliis decim. pertinentiis in M. Et nisi &c.

A Writ of Covenant of divers things.

Linc. ff. **P**Rec. F. M. arm. et T. M. filio et heredi
apparent. ejusdem F. quod ten. F. F. et N
R. gent. convenc. &c. d e maner. de T. S. et
H. juxta M. super Trent. ac de xl. mes. xx.
cottag. xl. toft. xxx. horreis, 2 molend. a-
quatic. uno molend. ventritico, 3 colum-
bar. xl. gardin. xl. pom. mille acr. terr. mil-
le acris prati, mille acr. past. 500. acr. bosci,
C. maris. C. jampn. et bruer. C. acr. maris.
C. acr. alneti, C. acr. juncar. 500 acr. more,
4 li. redd. et redd. dimid. unius libre pi-
peris cum pertin. in T. &c. ac etiam de mino-
ra carbon. cum pertin. in T. et S. Necnon de
advoc. Eccles. de T. et H. Et nisi &c.

A Writ of covenant of Dismes and Tythes.

Wott. ff. **P**Rec. D. E. quod &c. teneat R. T. armig.
non &c. de decimis garbarum, granorum
et sceni cum pertinentiis in R. et W. ac de
decima sceni in V. necnon de decimis lani,
agnorum, oblationum, obventionum, et e-
molumentorum, et de omnibus aliis decimis
quibuscunque, venien. crescen. et renovan.
in W. prædict. Et nisi &c.

Prec. T. B. et A. uxori ejus, quod ten. C. VV. armig.
non. &c. de Rectoria de L. ac de advocacione Vicar. de
L. ac de decem mesuag. x. cottag. x. horreis. x gardin.
&c. cum pertinent. in L. prædict. Et nisi &c.

Prec. &c. quod juste &c. de x mes. &c. in VV. Nec
non de Rector. ecclesiæ de G. et de decim. granor.
sceni, lini, agnor. et omnium aliar. decimar. quarum-
cunque in G. prædict. ac etiam de advocat. Vicar. ec-
cles. de G. prædict. cum pertinent. Et nisi &c. *Re*

Release by Fine of one to two.

Surr. ff. **P**Rec. W. W. quod iuste, &c. ten. I. L. & A.
P. con. &c. de sex mesuagiis &c. cum per-
tinent. in C. W. & E. &c. Et nisi &c.

Et est concord. talis, scz. quod predict. W. recogn.
pred. tenement. cum pertinentiis esse ius ipsius I. ut
ill' quæ iidem I. & A. habent de domo præd. W. & illa
remiser. & quiet. clam. de se & her. suis prædict. I. &
A. & hered. suis imperpetuum. Et preterea idem W.
concessit pro se & hered. suis, quod ipsi warrant. præd. I.
& A. & hered. ipsius I. L. pred. tenementa cum pertin.
contra pred. W. & hered. suos imperpetuum. Et pro
hac, &c.

*Fine upon Cognizance de droit, by the husband and
wife to two.*

Surr. ff. **P**Rec. I. T. & A. uxor. ejus, quod iuste &c.
ten. W. R. & R. D. con. &c. de quatuor mes.
quatuor toftis, 40 aer. ter. 20 aeris prati, 20
acr. pastur. & 5 solid. & 4 d. reddit. cum per-
tin. in S. Et nisi, &c.

Et est concord. talis, scilicet, quod predict. I. & A.
recogn. predictum tenementum cum pertinentiis esse
ius ipsius VV. ut illa que idem VV. & R. habent de do-
mo predictorum I. & A. Et ill' remiser. & quiet. clam.
de ipsis I. & A. hæredibus ipsius I. prædict. VV. & R.
& hæredibus ipsius W. imperpetuum. Et preterea iidem
I. & A. concesserunt, pro se et hæredibus ipsius I.
quod ipsi warrant. predictis VV. et R. et hæredibus ip-
sius VV. predictum tenementum cum pertinent. contra
predict. I. et A. et heredes ipsius I. imperpetuum. Et
pro hac recogn. remissione, quiet. clam. warrant. fine
et concord. iidem VV. et R. cederunt predictis I. et A.
ducentas et quadraginta libras sterlingorum.

A Fine by Baron & feme and another.

lincoln. ff. **P**Rec. R. B. gen. & T. R. & M. uxor ejus,
quod ten. T. B. gent. convenc. &c. de tri-
ginta acr. terr. duabus acr. prati, tribus acr. pasturæ,
& sex acris bosci cum pertinent. in C. & nisi &c.
Et est concordia talis, scilicet, quod predicti R. T.
& M. recognoverunt tenementa predicta cum perti-
nent. esse jus ipsius T. B. ut illa quæ idem T. habet de
ono prædict. R. T. & M. Et illa remiserunt & quict.
am. de ipsius R. T. & M. & hered. ipsius R. Prefat. T.
& hered. suis inperpetuum. Et preterea iidem R. T.
& M. concesser. pro se & hered. ipsius R. quod ipsi
warrant. tenementa predict. cum pertin. prefat. T. B.
& heredibus suis contra predict. R. T. & M. & hered.
ipsius R. inperpetuum. Et pro hac &c.

A Fine of a Parcel in reversion by a Coparcener.

arr. ff. **P**Rec. T. W. & K. uxor. ejus, quod juste &c.
teneat. G. S. convenc. inter eos fact. de tertia
parte viii. messuag. sept. gardin. lx. acr. terr.
x. acr. prati, xx pasturæ, quinquaginta acr.
bosci, cum pertinentiis in A. B. C & D.
Et est concordia talis, scilicet, quod prædictus T. &
K. recogn. tertiam partem prædict. cum pertinen. esse
ipsius G. & concess. quod eadem tertia pars cum
pertinen. quam M. B. vid. tener ad terminum vitæ suæ
& hereditate ipsius K. die quo hæc concordia facta fuit,
quæ post mortem ejusdem M. ad ipsos T. & K. re-
verti debuit, reman. prefat. G. & heredibus suis in-
perpetuum: Tenend. &c. præterea iidem T. & K. con-
cesser. pro se & hered. ipsius K. quod ipsi warrant. prefat. G.
& heredibus suis tertiam partem pred. cum pertin. sicut
predictum est, contra se & hered. ipsius K. inperpetuum.
Et pro hac &c.

A Fine levied by a Husband and Wife of a Manor, to an Archbishop, and one other.

Midd. ff. **P**REC. I. L. Militi, domino L. & I. uxor. ejus, quod iuste et sine dilatione teneant Reverend. in Christo patri. T. Y. permissione divina Archiepiscopo Ebor. Anglie primati, et G. L. convenc. inter eos fact. de maneriis de R. K. et M. cum perrin. ac de quinquagint. messuagiis, quingentis tostris, ducentis cotagiis, sex molendinis, quingentis horreis, quingentis gardin. quinque mille acr. terræ, mille acris prati, sex mille acr. pastur. mille acr. bosci, decem mille acr. jam pñorum, & brueræ, ac des quingent. libr. redd. cum perrin. in R. C. A. alias S. T. V. VV. et E. ac de advocacione Ecclesie de F. prædict. ac de Vis. francipleg. de R. C. et A. prædict. Etnisi &c.

Et est concordia talis, scilicet, quod prædictus I. L. miles, dominus L. et I. uxor. ejus, recogn. maneria tent. redditus, advocacionem et vis. francipleg. prædict. cum perrinen. esse jus ipsius T. Y. Archiepiscopi Eborum, ut ill' que idem T. Y. Archiepiscopus et G. L. habeant de dono prædictorum I. L. et I. uxor. ejus. Et illa remiser. T. Y. Archiepiscopo G. L. et hered. ipsius T. Y. Archiepiscopi in perpetuum. Et ulterius inde I. L. et I. uxor. ejus, concesser. pro se et hered. ipsius L. quod ipsi warrantizabant maneria tenement. reddit. advocat. et vis. francipleg. prædict. cum pertinentiis prædict. T. Y. Archiepiscopo Eborum G. L. et hered. ipsius T. Y. Archiepiscopi contra omnes homines in perpetuum. Et pro hac &c.

A Concord from two to two, with special warranty.

ET est concord. talis, scilicet, quod predicti A. & B. recogn. prædict. Maner. molendin. columbar. tenement. reddit. & communiam pastur. cum pertinentiis esse jus ipsius C. ut illa quæ iidem C. & D. habent de dono ipsorum A. & B. Et ill. remiser. & quiet. clam. de se & hæred. ipsius A. predict. C. & D. & hæred. ipsius C. in perpetuum. Et præterea idem A. concessit pro se & hæredibus suis, quod ipsi warrant. prædict. C. & D. & hæred. ipsius C. predict. maner. molendin. columbarium, tenent. reddit. & communiam pastur. cum pertinent. contra se & hæred. tuos in perpetuum. Et ulterius idem B. concessit pro se & hæredibus suis, &c. ut supra.

A Concord of a Mannor, with a free warren and free fishing by an Earl and his wife.

ET est concordia talis, scilicet, quod prædicti Comes & Fr. ux. ejus recogn. prædict. maner. tenement. & reddit. cum pertin. ac advocationem, libertatem, liberam warren. & liberam piscar. præd. esse jus ipsius W. ut ill. que idem W. habet ex dono prædictorum Comitis & Fr. ux. ejus. Et ill. remiserunt & quiet. clam. de se & hæredibus suis prefat W. & hæred. suis in perpetuum. Et præterea iidem Comes & Fr. concesser. pro se & hæred. ipsius Comitis, quod ipsi warrant. manerium, tenementum, & reddit. prædict. cum pertinentiis: Ac advocationem, libertatem, liberam warrenam, ac liberam piscariam prædict. prefat. W. & hæredibus suis contra omnes homines in perpetuum & pro hac, &c.

A fine upon Cognisance of right, as that which be hath of his gift, with release and warranty by husband and wife to a third person.

PRecipe I. H. & V. uxori ejus, quod juste, &c. ten. R. P. generos. con. &c. de manerio de B. cum pertin. ac de viginti messuagiis, duob. toftis, sex cottagiis, 4. horreis, uno molend. aquat. uno molendino fullonico, uno molendino ventritico, uno columbario, viginti gardinis, decem pomariis, centum acris terræ, centum acris prati, mille acris pastur. decem acris bosci, viginti acris saliceti, centum acris jampnorum & bruere, viginti acris moræ, viginti acris turbariæ, triginta acris mossiet, sex acr. juncar. viginti acr. marisci frisci, & viginti acr. marisci salsi, duobus acris alneti, decem marcis redd. cum pertin. in B. C. & D. Nec non de liberis piscar. in aquis de O. C. & D. ac de sepeciali piscar. in aqua de S. Nec non de advocatione Ecclesiæ de B. alternis vicibus cum acciderit. Et nisi, &c.

Et est concordia talis, scilicet, quod predicti I. & V. recogn. maneria, tenementa, reddit. & liber. piscar. præd. cum pertinen. ad advocationem prædict. esse jus ipsius R. ut ill. quæ idem R. habuit de dono prædictorum I. & V. Et ill. remis. & quiet. clam. de ipsis I. & V. hered. ipsius I. prædicto R. & heredibus suis in perpetuum. Et preterea iidem I. & V. concesserunt pro se & hered. ipsius I. quod ipsi warrant. prædicto R. & heredibus & assignatis suis prædict. maner. tenementa, reddit. & liber. piscar. cum pertinen. ac advocat. prædict. contra omnes homines in perpetuum. Et pro hac recogn. remissione, quiet. clam. warrant. sine & concordia, idem R. dedit predictis I. & V. xl. li.

*A Concord of many things together, sur cognifance
de droit come ceo, &c.*

HÆc est finalis, &c. Anno regni, &c. Coram, &c.
Justic. & aliis dominæ Reg. fidelibus tunc ibidem
presentibus inter I. A. quer & M. B. deforc. De ho-
nore D. Castro, vice comitat. de S. cum hundred. mem-
bris & pertîn. suis, Insula de D. Baronia de D. hun-
dred. de D. Burgo de D. uno feod. milit. in D. Scit.
Ambit. & precinct. nuper monasterii de D. manerio
de D. cum pertinen. Sit. mancrii de D. Grangia de D.
Parco de D. Prebend. de D. uno capitali mess. 2. mess.
2. roftis, 2. cottagiis, 1. columbr. 1. molendino fullo-
nico, 1. molend. aquatico, 1. molend. ventritico, 1. mo-
lend. granatr. 1. molend. bladar. 1. horreo, 1. gardin.
1. pomar. 10. acr. terr. 10. acr. prati. 20. acr. pasturæ, 4.
acr. Bosci, 40. acr. jampnorum & bruere, 30. acr. mo-
ræ. 50. acr. marisci salsi. 9. acr. marisci frischi, 30. acr.
turbat. 9. acr. juncar. 6. acr. alneti. 6. acr. molseti. 4.
acr. ter. aqua coopert, commuffia pastur. pro omnib.
vel omnimod. animalibus vel pro C. ovibus x. equis,
vaccis, porcis, spadonibus, &c. libera warrena, lib. pis-
car. libertate faldagii, libera faldæ, Cifio, salm. plum-
bar. bullar. aque falfæ, puteo, 20. librar. decem mar-
car. decem solidor. uno denario, uno obolo & quadrant.
redd. ac reddit unius par. chirothecarum, unius par. cal-
cearium deaurat. sagitte barbatæ, unius par. calceorum,
unius vomeris, 1. libre cere, 1. libre piperis, 1. libre
umint, 1. clavi gariophylli, 1. rosæ rubæ, 1. Acus &
alli, 1. quarterii frumenti, quarterii ordeï, 2. brasçi ca-
ponum. 40. gallorum, 20. gallinarum, 1000. ovorum,
& aucarum, cum pertinentiis in D.
Ac de communia pasturæ quam predict. M. B. habet
& her. solebat pro omnimodis averiis suis in C. acris
pasturæ ipsius I. A. in D.

M 3

Ac

Ac de omnibus vel omnimodis oblationibus, decimis granorum, garbarum, fæni, lanæ, lini, canabis, porcellorum, aucarum, agnellorum, &c. & aliis emolumentis quibuscunq; spectan. pertinen. crescentibus sive existen. cum pertinentiis in D.

Ac de theolonio, stallagio, picagio, pontagio, infra burgum de D. quodam corrodio unius panis, unius lagene cerviciæ pro omnibus hominibus in D.

Et de gurgite & cursu aquæ current. a loco vocat. H. infra & per terr. vocat. K. ad molend. vocat S.

Wera sive veda in D. Ac de vis. franc. pleg. libertate & franchiseis in D. Necnon de custod. sive officio custod. de B. custod. parci & foreste de D. ac de officio seneschalcix de D. Balliva sive officio ballivat. de D.

Necnon de nundinis de D. singulis annis ad festa de N. M. ibidem tenend. mercat. de D. quiet. sive libero passagio ultra aquam de D. Rectoria de D. advocacy, presentatione, donation. libera disposition. & jure patronat. ecclesiæ de D. quadam porcione decimarum aut pensionum in D.

Necnon de medietate manerii de D. cum pertinen. & de tertia parte ten. de C. in tribus partibus divis. excepti. & omnino reservat. patronagio una cum advocacy vicariæ, ecclesiæ de D. & capelle eid. rectorie annex. ac omnibus decimis granorum, vis. franc. pleg. ac omnibus quæ ad vis. franc. pleg. pertinent. ward. maritagiis, escaet. cattall. felonum, waviat. extrahur. felon. fugitivorum, ut lagat, attinet. cum terr. & tenement. ut lagat & waviat. quibuscunque feriis, mercat. wrecc. maris, ac tot & tantis juribus, jurisdictionibus, privilegiis, franchises. & libertat. tenement. predict. aut aliquod eorum concernen. & eid. M. B. & heredibus suis ut de manerio de D. spectan.

Unde placitum conventionis summonit. fuit inter eos in eadem Cur. Scilicet, quod predict. M. recognovit predict. honorem, Castrum, vicecomitatum, Insu-
lam

lam, baroniam, hundredum, burgum, feod. milit. Sir-
manum, parcum, prebend. tenement. reddit. com-
muniam pasture, liberam warrenam, liberam piscariam,
libertatem salin. plumbatum, bullar. puteum, rector-
decimas, oblationes, Theoloneum, stallagium, picagi-
um, pontagium, corrod. gurgitem, vis. franc. pleg.
libertates, franches. custod. officium senescal. ballivat.
mundinas, mercatas, feriam, passagium. Wreccum ma-
ris, medietatem & tertias partes cum pertinentiis. Ac
advocationes, presentationes, liberam dispositionem,
jus patronat. porcionem & pentiorem prædictas esse
jus ipsius I. Ut illa quæ idem I. habet de dono præ-
dict. M. & ill. remis. & quiet. clama. de se & heredi-
bus suis prædict. I. & heredibus suis in perpetuum.

Et preterea idem M. concess. pro se & heredibus suis
quod ipse warrant. prædict. I. & heredibus suis prædict.
honorem, castrum, vicecomitatum, insulam, &c. (ut
supra,) contra se & heredes suos in perpetuum. Et pro
hac recognitione, sine, &c.

A Fine of a Rent.

Nottingh. ss. PRec. I Comiti H. & domine K. uxori
ejus Comitisse. H. quod juste & sine
dilatione ten. W. C. Convenc. &c. de
quadraginta libr. annui reddit. excuntis
de maneriis de E. &c. Et nisi, &c.

Et est concordia talis, scilicet, quod prædictus Comes
& Comitiss. recognoverunt redd. prædict. cum pertin.
esse jus ipsius W. ut illa quæ idem W. habet de dono
predictorum Comitis & Comitisse. Et ill. remis. &
quiet. clamaver. de se & heredibus suis præfat. W. &
heredibus suis in perpetuum. Et preterea idem Comes
& Comitissa concedunt pro se & heredibus ipsius Co-
mitis quod ipsi warrant. redd. prædict. cum pertin.
præf. W. & hered. suis contra omnes homines in per-
petuum. Et pro hac, &c.

A Fine of part of a Rent by husband and wife

Suffolk. ff. PRec. R. & I. uxori ejus quod teneant H.
C. convenc. &c. de tertia parte quinque
libr. sex solid. & octo denar. reddit. cum
pertin. exeun. de maneriis de K. Et nisi, &c.

Et est Concordia talis, scilicet, quod pred. R. & I.
recognover. tertiam partem predictam cum pertin. esse
jus ipsius H. ut illam quam idem H. habeat de dono
predictor. R. & I. Et illa remisit. & quiet. clamaver.
de se & hered. ipsius I. prefato H. & hered. suis in per-
petuum. Et preterea iidem R. & I. concesser. pro se
& heredibus ipsius I. quod ipsi warrant. prefat. H. &
hered. suis predictam tertiam partem cum pertinen.
contra omnes homines in perpetuum. Et pro hac, &c.

A Precipe with an exception and saving of some parcels.

PRec. &c. Con. &c. de Rectoria de T. cum pertin.
except. advocacione vicar. ecclesie de T. Et nisi, &c.

Et est; &c. quod predict. A. recogn. Rectoriam pre-
dictam cum pertin. (except. præexcept.) esse jus. &c. Et
ill. remisit. &c. (except. præexcept.) Et preterea idem
&c. conc. pro se &c. quod ipse warr. predict. &c. Re-
ctoriam præd. cum pertin. (excepta præexcept) &c.

Ebor. PRec. C. B. & F. uxori ejus quod ten. E. D.
& R. con. &c. de manerio de S. cum pertin.
ac de x. mess. viii. contag. C C. acr. terraz
C C. acr. prati, 160. acr. pasture, 300. acr.
more & vi. s. redd. cum pertin. in A. F. B. &
C. & nisi fecerint, &c.

*A Concord with a render for life, the remainder to the
1, 2, 3. &c sonne of the Cognizor.*

Et est concordia talis, scilicet, quod predicti. T. & F. recogn. maner. tenementa & redd. predict. cum pertin. esse jus ipsius E. ut ill. quæ iidem E. & R. habent de dono predict. T. & F. Et illa remiser. & quiet. clam. de ipsius T. & F. & hered. ipsius F. prefat. E. & R. & hered. ipsius E. in perpetuum. Et præterea iidem T. & F. concesser. pro se & hered. ipsius F. quod ipsi warrant. manerium, tenementa & redd. cum pertin. præf. E. & R. & hered. ipsius E. contra ipsos T. & F. & hered. ipsius F. in perpetuum. Et pro hac recogn. &c. iidem E. & R. concesser. prefat. T. & F. maner. de S. predict. cum pertinentiis, ac 20. mess. 8. cotag. 20. acr. terræ. 20. acr. prati, 160. acr. pastur. 300. acr. more, vi.s. redditus cum pertinent. in A. & F. predictis, parcelas maner. tenementorum & redd. predict. Et ill. eis reddider. in eadem curia. Habendum & tenendum prefat. T. & F. pro termino vitæ ipsorum T. & F. & alterius eorum diutius vivent. absque impetitione alicujus vasti. Et quod post decessum predicti T. & F. & eorum alterius diutius vivent. predict. parcel. maner. tenementorum & redd. predict. cum pertinentiis reman. primogenito filio de corporibus pred. T. & F. inter eos legitime procreat. & hered. mascul. de corpore predict. primogenit. filii legitime procreat. Tenend. &c. Et si nullus heres de corpore ipsius primogeniti filii fuer. legitime procreat. predict. parcel. maner. tenementorum & redd. predict. cum pertin. reman. secundo genito filio de corpore predict. T. & F. inter eos legitime procreat. & hered. mascul. de corpore dicti secundi geniti filii legitime procreat. Tenend. &c. Et si nullus heres de corpore ipsius secundi geniti filii fuer. legitime procreat. tunc predict. parcel.

parcell. maner. tenementorum & redd. predict. cum pertinent. reman. hered. de corporibus predict. T. & F. inter eos legitime procreat. Tenend. &c. Et si nullus heres de corpor. ipsorum T. & F. inter eos fuer. legitime procreat. tunc predict. parcel. maner. tenementorum & redd. predict. cum pertinentiis reman. inde rectis hered. ipsorum T. & F. in perpetuum. Tenend. &c. Et ulterius iidem E. & R. concess. prefat. T. & F. x. mess. &c. cum pertinentiis in B. & C. predict. residuum predict. maner. tenementorum & redd. predict. Et ill. eis. redd. in ead. Cur.

A Fine to a Corporation.

Oxon. ff. **P**Rec. I. P. vid. & E. P. gen. quod iuste, &c. ren. W. E. Presidenti Collegii Sancti Johannis Bapt. in Academia Oxon. & Scholastic. ejusdem collegii con. &c. de situ & precinctu domus Collegii vulgarit. nuncupat. *the white Fryers* in suburbiis civitat. Oxon. cum pertinentiis; ac de vi. messuag. vi. gardin. vi. pomar. v. acr. terr. duobus acris prati, & sex acris pasture cum pertin. in suburbiis civit. pred. Et nisi, &c.

Et est concordia talis, scilicet, quod predict. I. & E. recogn. tenementa predicta cum pertinentiis esse jus ipsorum Presidentis & Scholasticorum, ut ill. que iidem Præsidens & Scholastici habent de dono prædictorum I. & E. Et ill. remisit. & quiet. clamaver. de se & heredibus ipsius E. prefatis President. & Scholastic. & successoribus suis in perpetuum. Et preterea iidem I. & E. concesser. pro se & hered. suis quod ipsi warrant. præfat. Præsidens. & Scholastic. & successor. suis tenementa pred. cum pertin. contra præf. I. & E. & hered. ipsius E. in perpetuum. Et pro hac, &c.

A fine for Homage, Rent and Services.

Salop. **P**REC. E. T. ar. quod ten. N. P. con. de una
acr. terræ & quindecim solidis redd. cum
pertin. in G. & F. Et nisi, &c.

Et est concordia talis, scilicet, quod predict. E. T.
recognovit predict. acr. terræ cum pertin. esse jus ipsius
N. ut ill. quam idem N. habeat de dono pred. E. & ill.
remisit & quiet. clamavit. de se & hered. suis præf. N.
& heredibus suis in perpetuum. Et predict. E. concessit
præfat. N. pred. reddit. simul cum homagio & toto
servitio I. H. & heredum suorum de tot. tenementis
quot de predict. E. prius tenuit in F. predict. Habend.
percipiend. & gaudend. predict. reddit. simul cum
homagio & toto servitio predict. N. & heredibus suis
in perpetuum. Et pred. E. & hered. sui warr. pred.
N. & hered. suis predict. acr. ter. & reddit. predict.
cum pertinentiis, simul cum homagio & toto servitio
præd. (sic ut dictum est) contra omnes homines in
perpetuum. Et pro hac, &c.

*A fine of a Mannor, and knights fees and services by the
husband and the wife and others.*

Inter H. W. & I. B. quer. & T. M. Militem & T.
filium ejusdem T. & E uxorem ejusdem T. filii & W.
M. deforc. de manerio de T. cum pertin. unde placi-
tum conventionis sumum. fuit int. eos in eadem curia
scilicet quod predict. T. T. E. & W. recogn. predict.
manerium cum pertin. esse jus ipsius H. ut illud quod
iidem H. & I. habeant de dono predict. T. T. E. & W.
una cum septem feodis militum in eodem Manerio. Et
concesser. predict. H. & I. predict. manerium & feod.
cum pertin. simul cum homagiis & omnibus servitiis
M. W. & I. N. & hered. suorum de tot tenementis
quot

quot de predict. T. T. E. & W. prius tenuerunt in eodem Manerio. Et ill. eis reddider. in eadem cur. Habend. & tenend. iisdem H. & I. & heredibus ipsius H. de capital. dominis feodi illius per servitia que ad pred. Manerium & feoda pertinent. in perpetuum. Et preterea iid. T. T. E. & W. concesser. pro se & hered. ipsius E. quod ipsa warr. pred. H. & I. & hered. ipsius H. predict. manerium & feoda cum pertin. sicut pred. est contra omnes homines in perpetuum. Et pro hac recognitione, concessione, warrantia, fine & concordia iidem H. & I. deder. predict. T. T. E. & W. 20. li. sterlingorum.

A Concord of Lands in the County palatine of Lancaster.

Lancast. ss. **H**Æc est finalis concordia fact. in Curia dominæ Reginæ apud L. die Lune in quinta septimana quadragesimæ anno Regni Eliz. dei gratia Angliæ, Franciæ, & Hiberniæ, Reginæ, fidei defensor. &c. xxxii. coram I. Clench tertio Baron. Scaccar. dominæ Reginæ, & F. R. uno servientium dominæ Reg. ad legem Justic. domin. Reg. apud L. & aliis dict. dominæ Reg. fidelibus tunc ibi presentibus. inter H. T. & R. H. quer. & W. C. gen. deforc. de uno mesuag. &c. cum pertinentiis in T. unde placit. conventionis summ. fuit inter eos in eadem curia, scilicet, quod prædictus W. recognovit, &c.

A Fine in the Countie Palatine of Chester.

Chester. ss. **H**Æc est finalis concordia fact. in Curia dominæ Reg. apud Chestr. die Lune septimo die Maii, anno Regni domine Reg. Eliz. xxii. &c. inter H. S. & W. S. & E. uxorem ejus deforc. de

de duobus messuagiis, duobis salinis vocat. *Wich houses*,
saliter *Salt houses*, duobus shoppis, ii. cameris, uno
stabulo, decem acr. terr. quatuor acr. prati, & 6. acr.
pasture cum pertinentiis in H. & S. unde placitum con-
ventionis summ. fuit inter eos in eadem curia, scili-
cet, quod predict. W. S. & E. uxor ejus recogn. te-
nimenta predict. cum pertinen. esse jus pred. H. S. ut
ill. que idem H. S. habet de dono prædictorum W. &
E. Et ill. remisit. & quiet. clam. de se & heredibus ejus
præf. H. S. & heredibus ipsius H. S. in per petuum. Et
preterea præf. W. & E. concessit. pro se & hered. ipsi-
us W. quod ipsi & hered. predict. W. tenem. predict.
cum pertinentiis præf. H. & hered. ejus warrant con-
tra omnes homines in perpetuum. Et pro hac recognic.
remiss. quiet. clamac. sine & concordia præf. H. S. de-
dit præf. W. & E. quadraginta libras sterlingorum.

A Lease for years reserving a Rent by grant.

Ebor. ff. PRec. F. T. & M. uxori ejus, quod juste
& c. ten. I. H. & K. uxori ejus convenc.
& c.

Et est concordia & c. scilicet, quod præd. F. & M.
conces. predict. I. & K. tenement. predict. cum pertinen.
Habend. & tenend. eidem I. & K. a festo & c. quod e-
rit. in anno & c. complend. si præd. M. tam diu vixerit.
Reddend. inde ad festa & c. per equales portiones sol-
vend. durante toto termino predicto & c. Et si contigat,
& c. *Quere, whether this be a good Lease at this day
against issue in Tail.*

*A Lease for years rendring Rent, with a render
and a distress.*

*Ebor. ff. p*Recipe T. P. armig. & W. C. gent. quod
juste, &c. ten. I. W. & E. M. convenc. &c.
de uno messuag. &c. cum pertinentiis in H. &
B. ac de libera piscaria in aqua de B. Et nisi
&c.

Et est concordia talis, scilicet, quod predict. T. &
W. recogn. tenement. & liberam piscariam predict.
cum pertin. esse jus ipsius I. ut ill. que idem I. & E.
habent de dono predictorum T. & W. Et ill. remis. &
quiete clam. de se & hered. suis prefat. I. & E. hered.
ipsius I. in perpetuum. Et preterea iidem T. & U. concess.
pro se & hered. ipsius T. quod ipsi warrant. tenement.
& liber. piscariam pred. cum pertin. prefatis I. &
E. & hered. ipsius I. contra omnes homines in perpetuum.
Et pro hac recognic. remissione, quiet clam. warr. fine, &
concordia, iidem I. & E. concesser. pref. W. tenement. &
lib. piscar. pred. cum pertin. Et ill. ei reddider. in eadem cur.
Habend. & tenend. tenementa & liberam piscariam predict.
cum pertinentiis pref. W. & assignatis suis, a festo Sancti Martini
in hyeme ultimo preterito, usque ad finem termini sexaginta
annorum extunc proxim. sequen. & plenarie complend.
Reddend. inde annuatim prefatis I. & E. & hered. ipsius I.
quendam annual. reddit. iii. li. vi. s. viii. d. legalis monete
Angliæ, ad festa S. Martini Episcopi in hyeme & P. per
equales portiones durant. termino predict. solvend. Et si
contingat pred. annual. redd. iii. li. vi. s. viii. d. a retro fore
in parte vel in toto post aliquod festum festorum pred.
quando ut prefertur solvi debeat non solut. per spacium
viginti dier. quod tunc bene liceat & licebit pref. I. & E. &
hered. ipsius I. in tenem. præd. cum pertin. intrare &
distringere,
distri-

districcionesque sic ibidem capt. & habitas licite aspor-
tare, effugare, abducere, & penes se retinere, quousque
de predict. annual. reddit. iii. li. vi. s. viii. d. una cum
arreragijs ejusd. si que fuerint sibi plenarie fuerit sa-
tisfact. & persolut. Concesser. etiam pred. I. & E. pre-
fat. I. tam reversionem tenem. & libere piscarie
predict. cum pertin. quam predict. redd. iii. lb. vi. s.
viii. d. superinde reservat. Et ill. eis reddider in ea-
dem cur. Habend & tenend. tam reversionem tenemen-
torum & liber. piscar. pred. cum pertinen. quam predict.
redd. iii. li. vi. s. viii d. superinde reservat præf. T. &
hered. suis in perpetuum. Tenend. &c. ut supra.

A Lease for years saving the Reversion.

Ebor. ss. PRec. C. & A. uxori ejus, quod juste &c.
ten. W. S. & I. uxori ejus convenc &c. de
&c. expressing the Tenements, &c.

Et est concordia talis, scilicet, quod predict. C. & A.
recognover. tenem. predict. cum pertinentiis esse jus
ipsius W. ut illa que iidem W. & I. habent de dono
predict. C. & A. & ill. remisit. & quiet. clama. de se &
hered. suis præf. W & I. & hered. ipsius W. in perpetu-
um. Et preterea &c. Et pro hac &c. predict. W. & I.
concess. tenementa predict. cum pertinentiis præf. C.
& A. & ill. eis reddider. in eadem cur. Habend. & te-
nend. tenement. pred. cum pertin. præf. C. & A. &
assign. suis a festo S. Mich. archangeli ultim. preterito,
usque ad finem termini & pro termino xl. annorum
tunc proxim. sequen. & plenarie complend. & pre-
terea idem W. & I. hered. ipsius W. warrant tene-
ment. predict. cum pertinentiis prefato C. & A. & a-
signatis suis, durante termino predicto contra omnes
homines. Et pro hac, &c. ut supra.

*A Lease by tenant for life for one and twenty years;
if she live so long.*

Ebor. ss. **P** Rec. I. P. Gen. & E uxori ejus, & R. L. Arm. quod ten. I. M. convenc. &c.

Et est concordia talis, scilicet, quod cum predict. I. P. & E. habent & tenent. sibi pro termino vite ipsius E. predict. tenement. & piscar. cum pertin. reversione inde post decessum ipsius E. W. T. & hered. suis spectant. iidem I. F. & E. & R. concesser. prefato I. M. predict. tenementa & piscar. cum pertinentiis. Habend. & tenend. eidem I. & assignat. suis durante tota vita ipsius E. Et preterea predict. I. F. & E. & R. warrant. prefat. I. M. & assignat. suis tenementa & piscar. pred. cum pertin. sicut dictum est contra predict. I. F. & E. tota vita ipsius E. Et pro hac concess. warrant. sine & concordia, idem I. M. concessit. prefat. R. tenementa & piscar. predict. cum pertin. & illa ei reddidit. in eadem curia. Habend. & tenend. tenement. & piscar. predict. cum pertin. eidem R. pro termino xxi. annorum prox. im. sequen. & plenarie complend. si eadem E. tam diu vixerit. Reddend. inde annuatim prefato I. M. & assign. suis 14. li ad festa &c. per equales porciones annuatim solvend. pro tota vita ipsius E. Et si contingat &c. concessit etiam predictus I. M. prefatis I. F. & E. reversionem tenementorum & piscarie predict. cum pertinen. & redditum predict. superinde reservat. & ill. eis reddid. in eadem curia. Habend. & tenend. eidem I. F. & E. de capitalibus dominis feodi illius per servitia que ad predict. tenementa & piscariam cum pertin. pertinent pro tota vita ipsius E. Et post terminum illum finitum, tenem. pred. cum pertin. integre remanebunt P. assig. suis pro termino xxi. annorum post festum Sancti Martini in hyeme prox. futur. immediat. sequent. & plenar. complend. Reddend. inde annua-

etiam prefatis P. & E. & hered, ipsius P. toto termino predict. unam Rosam rubeam ad festum S. Johannis Bapt. annuatim solvend. si petatur. Et post terminum illum finitum, tenementa predict. cum pertin. integre remanebunt prefat. E. & M. & hered. ipsius E. in perpetuum de capitalibus dominis feodi illius, per servitia que ad predict. tenementum pertinent in perpetuum.

A Lease to the wife for one and twenty years, to commence after her husbands death, reserving a Rent, the Cognisees grant back the same Reversion and Rent.

South. ff. PRec. C. C. armig. & D. uxori ejus, & R. B. generos. quod ten. H. M. & C. M. convenc. &c. de duobus messuagiis cum pertinent. in parva S. & nisi, &c.

Et est concordia talis, scilicet, quod predict. C. & D. & R. recogn. tenement. predict. cum pertin. esse jus ipsius H. ut ill. &c. Et ill. remisit. &c. Et preterea &c. Et pro hac, &c. predict. H. & C. concess. prefat. R. tenement. predict. cum pertin. Et ill. ei redd. in eadem curia. Habend. & tenend. tenement. predict. cum pertin. prefat. R. tota vita ipsius R. & immediate post decessum ipsius R. tenementa predict. cum pertin. integre remanebunt M. uxori ipsius R. execut. vel assign. suis, pro termin. 21 annor. extunc proxim. sequen. & plenar. complend. Reddend. inde annuat. pref. H. & C. & hered. ipsius H. quandam annuat. sive annual. reddit. 5. li. leg. moneta Ang. ad festa S. Mar. Episcopi & Pent. per equales portiones annuatim, durant. eodem termino solvend. prima solutione inde incipend. ad prox. fest. festor. predictor. post decessum predict. R. Et si contingat predict. annuit, sive annual. redd. 5. li.

5. li a retro fore; &c. Concess. etiam predict. H. & C. præf. C. C. & D. tam reversionem tenementorum cum pertin. quam pred. redd. 5. li. superinde reservat. Et ill. eis reddider. in eadem cur. Habend. tenend. & percipiend. predict. reversion. tenementorum predict. cum pertin. & redditum predictum præf. C. C. & H. & heredibus ipsius D. in perpetuum.

A Fine of Remainder for years, reserving Rent, and rendering the remainder to an Estranger.

Ebor. ff. **P**Rec. &c. C. N. & T. T. quod ten. M. B. & E. D. convenc. &c. de &c. Et nisi &c. Et est, &c. quod cum I. R. habet & tenet sibi & hered. de corpor. suo legitime procreat. tenem. predict. cum pertin. reman. inde post decessum ipsius I. si idem I. obierit sine herede de corpore suo legitime procreat. præf. C. & hered. suis spectan. iidem C. & T. concesser. tenementa pred. cum pertin. pred. M. & E. & hered. M. in perpetuum. Tenend. &c. & pred. C. & hered. sui warrant. præf. M. & E. hered. ipsius M. tenementa predict. cum pertin. sicut predictum est contra omnes homines in perpetuum. Et pro hac concessione, reddition. warrant. fine, & concord. iidem M. & E. concesser. pred. T. tenement. pred. cum pertin. Et ill. ei redd. &c. Habend. &c. eid. T. & assign. suis a festo S. Mart. in hyeme prox. post decessum pred. I. si idem I. obierit sine herede de corpore suo legitim. procreat. usque finem termini & pro termino mille & quingent. annorum extunc proxim. sequen. & plenarie complend. absque impetitione alicujus vasti. Reddend. inde annuatim præf. M. & E. & hered. ipsius M. unam denar. ad festum, &c. annuarim solvend. toto termino pred. si petatur. Et post terminum illum finitum, pred. tenementa cum pertin. integre reman. P. T. uni filiorum pred. T. & hered. ipsius P. in perpetuum, &c. ut supra.

A Lease in Reversion paying a Rent.

North. ss. **P**Rec A. B. et E. uxori ejus, quod ten.
C. D. convenc. &c. de uno mesuagio
&c.

Et est concordia talis, scilicet, quod predict. A. B. &
concess. tenement. predict. cum pertin. pref. C. D.
assignis suis. Et illa in eadem curia prefato C. D.
reddider. Habend. et tenend. eidem C. D. a festo
Etrtec. quod erit in anno dom. 1597. usque finem ter-
mini viginti unius annorum extunc prox. sequen. et
plenar. complend. Reddend. inde annuatim pref. A.
et E. et hered. ipsius E. septem libr. legalis monete
&c. ad festa S. Martini episcopi in hyeme N. A. P.
quibus porcionibus annuatim durante termino pred.
solvend. Et pro hac &c.

*Lease to divers for an hundred years, if the parties
live so long, reserving a Rent, and the best Beast af-
ter the death of every Tenant in name of an Heriot.*

London. ss. **P**Rec. I. R. arm. & M. uxori ejus, & T.
B. quod ten. R. C. & U. C. convenc. de
uno mesuagio &c.

Et est concordia talis, scilicet, quod pred. I. M. & T.
recogn. tenement. pred. cum pertinen. esse jus ipsius
ut ill. &c. cum relaxatione & warrantia. Et pro hac
&c. iidem R. & U. concesser. pref. L. B. pred. tene-
ment. cum pertin. Et ill. ei reddid. in ead. cur. Habend.
et tenend. eidem T. & assign. suis, a festo Nalalis domini
prox. futur. usque ad finem termini nonaginta annorum
extunc prox. seq. & plen. complend. si iidem T. & I. uxor
ipsius B. B. & T. B. filii ipsius T. tamdiu vixerint, aut
eorum aliquis tamdiu vixerit. Reddend. inde annuatim
pred. R. & U. & hered. ipsius U. quatuor libr. legalis
monete

monete Angl. ad Festa Annunciationis beatæ Mariæ Virginis, Nativit. S. Jo. Bapt. Sancti Mich. Archangeli, & Nativitatis Domini, per equales portiones annuatim solvend. toto termino predict. ac solvend. post decessum L. B. patris, & post decessum cujuslibet inde tenentis suum optimum animal nomine heriot. Et si contingat pred. redd. 4 li. a retro fore in parte vel in toto post aliquod festum festorum pred. quo ut presertur solvi debeat non solut. aut si contingat pred. optimum animal nomine heriot. ut presertur, solvend. post decessum cujuslibet tenentium promissorum fore in solut. aut substract. Quod tunc bene licebit pred. R. & V. & hered. ipsius R. in predict. tenementa cum pertinentiis inurare & distringere, distractionesque sic ibidem capr. & habit. licite abducere, asportare, & effugare, & penes se retinere, quousque de predict. redd. 4 li. & arverag. ejusdem, si quæ fuerint, una cum optimo animal. predict. quando conigerit plenarie fuerint satisfact. & persolut. Concesser. etiam predict. R. & V. predict. I & M. reversionem tenementorum predictorum cum pertinentiis & predictum reddit. 4. li. ac predict. reddit. optimi animalis nomine herioti superius reservat. Et ill. eis reddider. in eadem cur. Habend. & tenend. eisdem I. & M. & hered. ipsius I. & M. et hered. ipsius I. de capir. dominiis feod. ill. in perpetuum, &c.

A Lease reserving Rent, with a Nomine pene and a Distress.

Middles. **P**Recipe E. P. Armig. & M. uxori ejus & R. B. quod teneant I. R. & T. S. con. de uno Messuag, &c.

Et est concordia talis, scilicet, quod predict. E. P. & M. & R. B. recogn. tenementa predicta cum pertinentiis esse jus ipsius I. ut ill. quæ idem I. & T. habent de dono

dono predictorum E. M. & R. (cum relax. & warr.)
 Et pro hac, &c. iidem I. & T. concess. prafar. R. te-
 nementa predict. cum pertinen. Et ill. ei reddid. in
 eadem cur. Habend. et tenend. eidem R. A festo San-
 cti Mich. ultimo preterito pro termino trigint. & uni-
 us annorum extunc prox. sequen. & plenar. com-
 plend. Reddend. inde annuatim predict. I. & T. &
 hered. ipsius I. xx li. legalis monete Angliæ ad duos
 anni terminos, videlicet, ad festum Annunciationis
 beate Mariæ Virginis, & Sancti Michaelis Archang.
 per equales portiones annuatim solvend. toto termino
 predicto. Et si contingat predict. reddit. xx li. aut
 aliquam inde parcellam aretro fore in parte vel in to-
 to post aliquod festum festorum predictorum quo ut
 prefertur solvi debeat non solut. per spac. quadragin-
 ta dierum, quod tunc foris faciat predictus R. predictis
 I. & T. & hered. ipsius I. v. li nomine pene, & quod
 tunc & toties bene licebit predict. I. et T. et hered.
 ipsius I. in predicta tenementa cum pertinentiis intra-
 re et distringere, distractionesque sic ibidem capt. et
 habet. licite abducere, alportare, effugare, ac penes se
 retinere quousquetam de predict. xx li. quam de pre-
 dict. quinque libr. nomine pene, ut prefertur, foris-
 fact. cum arreragiis earum (si que fuerint) plenar. so-
 ler. satisfact. et persolut. Concesser. etiam predict. R.
 et T. predictis E. et M. predict. tenementa cum perti-
 nentiis ac predict. reddit. xx li. superinde reservat. ac
 predictam summam quinque librarum nomine pene.
 Et ill. eis reddider. in eadem cur. Habendum et te-
 nendum eisdem E. et M. et hered. de corpore ipsius
 E. legitime procreat. Tenend. &c. et pro defectu ta-
 lis exit. reman. inde W. W. et heredibus suis in per-
 petuum. Tenend. &c.

A Fine upon Grant and Render, to one for term of life without impeachment of waste, and for sixteen years after his death; then the one moiety to one and his heirs, and the other to another.

Ebor. **P**Recipe B. A. vid. nuper uxori W. A. mil. defuncti. quod ten. T. F. con. de medietate manerii de H. &c.

Et est concordia talis, scilicet, quod cum E. A. recogn. &c. Et pro hac &c. idem T. F. concessit prefat. E. A. medietatem predictam cum pertinen. & ill. ei reddidit in eadem cur. Habend. & tenend. predict. medietatem manerii &c. pred. E. A. pro termino vite sue ipsius E. absque impetitione alicujus vasti, de capitalibus dominis feodi illius per servitia quæ ad predict. medietatem pertinent tota vita ipsius E. & pro termino sexdecim annorum extunc prox. sequen. post mortem pred. E. Et post mortem predictæ E. & post pred. terminum sexdecim annorum finitum & determinat. quod tunc una medietas predict. medietatis manerii pred. &c. cum pertinentiis reman. B. G. modo uxori G. ar. & hered. ipsius B. Tenend. de &c. Ac altera medietas pred. medietatis manerii &c. pred. cum pertinentiis reman. E. G. modo uxori N. G. & hered. ipsius E. Tenend. de capitalibus &c.

A Render for life, the remainder to one and his heirs males, the remainder to another and his heirs.

Essex. **P**Recipe N. A. W. A. quod ten. R. C. & T. C. con. de 3 mess.

Et pro hac &c. iidem R. & R. concesser. præf. VV. tenementa predict. cum pertin. & ill. ei reddider. in ead. cur. Habend. & tenend. eidem VV. & assign. suis. Tenend. de capitalibus dominis feodi illius per servitia quæ

quæ ad predict. tenementa cum pertin. pertinent, tota
vita ipsius VV. Et post decessum ipsius VV. eadem tene-
menta cum pertin. integre remanebunt I. C. & here-
libus masculis de corpore ipsius I. legitime procreat.
Tenend. &c. Et si nullus heres sit de corpore ipsius I.
legitime procreat. tunc eadem tenementa cum perti-
nen. integre reman. I. C. fratri predict. I. & heredi-
bus suis in perpetuum. Tenend. &c.

*A Lease for life, the remainder for life to the wife in
Jointure, the remainder in tail.*

ET est concordia talis, &c. Et post decessum ipsius I.
pred. &c. cum pertin. integre remanebunt I. W. fi-
lia I. VV. nominæ juncturæ, quam (deo dante.) idem I.
C. ducet in uxorem. Tenend. de capitalibus, &c. tota
vita ipsius I. & post decess. ipsius I. pred. &c. cum
pertin. integ. remaneb. hered. masculis de corpore
pred. I. C. legitime procreat. Tenend. de capitalibus
dominis &c.

*A Fine where the husband buyeth lands, and granteth
them again to the Conisors for his wives life.*

Ebor. pRecipi T. C. ar. VV. R. ar. T. P. ar. & L. B.
gen. quod &c. ten. I. D. & E. uxori ejus
convenc. de maneriis de C. N. & B. cum per-
tin. ac de ducentis mess. &c. & de x li. redd.
cum pertin. in C. N. & B. Et nisi, &c.

Et est concordia talis, scilicet, quod predicti T. C.
VV. T. P. & L. recogn. maneria, tenementa & reddit.
predict. cum pertin. esse jus ipsius I. & ill. remiser.
quiet. clam. de se & heredibus suis pref. I. & E. & he-
redibus ipsius I. in perpetuum. Et pro hac, &c. idem
& E. concesser. predictis T. C. VV. T. P. & L. pre-
dicta maneria, tenementa & reddit. cum pertinentiis

et ill. eis reddid. in eadem curia. Habendum et tenendum eisdem. T. C. W. T. P. et L. tota vita ipsius E. et predict. I. et heredes sui warr. predictis T. C. W. T. P. et L. predicta maneria, tenementa et redd. cum pertin. sicut dictum est, contra omnes homines duran. vita predict. E. &c.

A Concord of divers tenements, rents, a rectory and advowson, with the moiety of a Mill.

HÆc est finalis concordia facta in curia dominæ Reginæ apud W. a die P. in quindecim dies, Anno regni Elizab. Dei gratia Angl. Fr. & Hib. Reg. fidei defensoris, &c. a conquestu vicefimo quarto, coram E. A. T. M. F. W. W. P. Justic. & aliis dominæ Reg. fidelibus tunc ibi presentibus, inter I. B. gen. & R. C. generos. querent. & R. C. seniore armiger. & R. C. de *Grays-Inne* in comitatu Midd. gener. deforc. de centum messuagiis, centum coragiis, duobus millibus aer. terræ, mille aeris prati, duobus millibus aer. pasturæ, centum aeris bosci, mille aeris jam pnorum & bruer. & centum solidis reddit. cum pertin. in &c. Necnon de rectoria de K. cum pertinentiis, Ac de advocatione Ecclesiæ de K. unde placitum convensum. fuit inter eos in eadem curia, scilicet, quod predict. R & R. recognoverunt predicta tenementa redditus, & rectoriam cum pertinentiis, ac advocationem predictam esse jus ipsius I. ut illa. quæ iidem I. & R. habent de dono predictorum R. & R. & illa remiserunt & quier. clam. de ipsis R. & heredibus suis predict. I & R. & hered. ipsius I. in perpetuum. Et preterea iidem R. & R. concesserunt pro se & heredibus ipsius R. C. senioris, quod ipsi warr. predictis I. & R. & heredibus ipsius I. predict. tenementa, reddit. & rectoriam cum pertinentiis, ac advocationem predict. contra predict. R. & R. & hered. ipsius R. C. senioris

in perpetuum. Et pro hac recogn. remissione, quiet-
clam. warrant sine & concordia, iidem I. & R. dede-
runt predictis R. & R. duo mille li. sterlingorum.

A Fine of a fourth part to two.

HÆc est finalis concordia facta in cur. dominæ Reg.
apud Westm. in Octab. Sancti Mich. Anno regni
Eliz. Dei gratia, Angl. Franc. & Hibern. Reg. fidei
defens. &c. à conquestu 36. coram E. A. T. W. R. W.
& T. L. Justic. & aliis dominæ reginæ fidelibus tunc
ibid. presentibus, inter G. & I. & W. W. quer. & I. C. &
I uxorem deforc. de quarta parte 2 messuagiorum, 4
rostor. 2 gardinor. 2 pomar. ducent. acr. terræ, 20 acr.
prati, 40 acr. pasturæ, 12 acr. bosci, & 100 acrar. mo-
re cum pertin. in G. & L. in quatuor partes divis un-
de placitum conventionis sum. fuit inter eos ead. cu-
ria. Scilicet, quod predict. I. & I. recogn. predictam
quartam partem cum pertin. esse jus ipsius G. ut illam
quam iidem G. & W. habent de dono predict. I. & I.
Et illam remis. & quiet. clam. de ipsis I. & I. & hered.
ipsius I. predictis G. & W. & hered. ipsius G. in per-
petuum. Et preterea iidem Io. & Ia. concesserunt pro
se & hered. ipsius Ia. quod ipsi warrant. predict. G. &
W. & hered. ipsius G. predict. quart. partem. cum per-
tin. contra predict. I. & I. & hered. ipsius Ia. in per-
petuum. Et pro hac recogn. &c. iidem G. & W. con-
cesserunt predictis I. et I. predictam quartam partem
cum pertin. Et illam eis reddider. in eadem curia.
Habend. et tenend. eisdem I. et I. de capitalibus do-
minis feodi illius per servic. quæ ad predictam quar-
tam partem pertinent tota vita ipsorum I. et I. et eo-
rum alterius diutius viven. absque imperiione alicu-
ius vassli. Et post decessum ipsorum I. et I. predict.
quarta pars cum pertin. integrè reman. B. C. filio pre-
dictorum I. et I. et hered. de corpore ipsius B. legiti-

me procreat. Tenen¹. de capital. dominis feod. ill.
&c. in perpetuum. Et si contingat quod idem B. obi-
 erit sine hered. de corpore suo legitime procreat. tunc
 post decessum ipsius B. predicta quarta pars cum per-
 tinen. integre reman. P. C. al. fil. predict. I & I. &
 hered. de corpore, *&c.* Tenend. de capitalibus, *&c.*
 in perpetuum. Et si contingat quod idem P. obierit,
&c. tunc post decessum ipsius P. predicta quarta pars
 integre reman. R. C. al. fil. predictorum I. & I. & he-
 red. de corpore, *&c.* Tenend. de capitalibus, *&c.* in
 perpetuum. Et si contingat quod idem R. obierit, *&c.*
 tunc post decessum ipsius R. predict. quarta pars cum
 pertin. integre reman. rectis hered. predict. Ia. Te-
 nend. de capital. dominis feod. illius per servita qua
 ad predict. quartam part. pertinent in perpetuum, *&c.*

*A Fine of Lands part in possession, and part in reversion
 of a third part for term of the life of the tenant in
 dower, and for term of the life of another tenant for
 term of life.*

*Ebor. ff. pRæcipe I. W. & A. uxori ejus, quod iuste,
 &c. ten. I. E. &c. E. E. con. de uno mess.
 &c. necnon de tertia parte in tres partes divi-
 dend. quatuor mess. cum perrin.*

Et est concordia talis, scilicet, quod predict. I & A.
 recogn. tenementa predicta, ac tertiam partem predict.
 cum pertinentiis esse jus ipsius I. de quibus iidem I. E.
 & E. E. habeant unum mess. cum perrin. in predictis
 vill. de T. & B. parcell. tenementorum predictorum,
 ac predictam tertiam partem quatuor mess. *&c.* cum
 pertinentiis in T. & B. parcell. tenementorum predi-
 ctorum de dono predict. I. & A. & ill. remisit. &
 quiet. clamaver. de ipsis I. & A. & heredibus suis pre-
 satis I. E. & E. E. & heredibus ipsius I. in perpetuum.
 Et concessit. pro se & hered. ipsius A. quod viginti
 acz

acra terr. sex acr. prati, &c. cum pertinen. in pred. villa de B. parcell. tenementor. & tertia pars pred. quæ I. A. & E. uxor ejus tenent. ad terminum vitæ ipsius E. de heredit. pred. A. die quo hæc concordia facta fuit. Et quæ post decess. ipsius E. ad predict. I. A. & heredes suos debuer. revert. post decess. ipsius A. integre remaneant pred. I. & E. & E. E. & hered. ipsius I. in perpetuum. Concesser. etiam predicti I. W. & A. pro se & hered. ipsius A. quod unum mess. cum pertinentiis in predict. vill de B. residuum tenementorum predict. quæ I. A. tenet ad terminum vitæ suæ de hereditate predict. A. die quo hæc concordia facta fuit. post decessum ipsius A. integre remaneat predictis I. E. & E. & hered. ipsius E. in perpetuum.

A Grant and Render of a Reversion of a moiety.

Ebor. ss. **P**Ræcipe N. G. & E. uxori ejus, W. G. & B. uxori ejus, quod ten. F. A. convenc. de medietate manerii de H. cum pertin. &c.

Et est concordia talis, scilicet, quod cum E. A. vidua, nuper uxor W. A. defuncti, habet & tenet predictam medietatem manerii de H. cum pertinentiis, ac predictam medietatem tenementorum & piscariæ predict. cum pertin. ad terminum vitæ suæ absque impetitione alicujus vastii. Et quod post mortem ejusdem C. predicta medietas manerii, tenementorum & piscariæ predictorum remaneant executor. testamenti ejusdem E. ad terminum sexdecem annorum tunc prox. sequen. post mortem ipsius E. absque impetitione vastii, & quæ post mortem predictæ E. A. ad terminum predictorum sexdecem annorum ad N. G. & E. uxor ejus, & W. G. & B. uxor ejus, & hered. dictorum E. & B. revertere deberent. predict. W. G. & B. uxor ejus, N. G. & E. uxor ejus, concedunt quod dictæ medietates dictorum maneriorum, tenementor. & piscariæ

caria cum pertin. post mortem predictæ E. A. et post
 pred. terminum xvi. annorum finitum et determinat.
 integre remaneant præfato F. A. et heredibus suis.
 Tenend. de capital. dominis feod. ill. per servitia que
 ad pred. medietates dictorum manerii, tenement. et
 piscarie cum pertinentiis pertinent. Et ill. remis. et
 quiet. clamar. de ipsis W. G. et B. uxor. ejus, N. G.
 et E. uxori ejus, et hered. suis præfat. F. A. et hered.
 suis in perpetuum. Et preterea iidem W. G. et B. N.
 G. et E. concesser. pro se et hered. ipsius N. quod ipsi
 warrant. pred. reversionem medietatis dictorum mane-
 rii tenementorum et piscarie cum pertin. præfat. F.
 A. et hered. suis contra ipsos W. G. et B. N. G. et E.
 et heredes suos in perpetuum. Et pro hac, &c. idem
 F. concessit. præfat. VV. G. et B. N. G. et E. predict.
 reversionem medietatis manerii, tenementorum et
 piscar. predict. cum pertinen. Et ill. eis reddider. in
 eadem curia. Habend. et tenend. eandem rever-
 sionem medietatis manerii, tenementorum et piscarie
 predict. cum pertinen. dictis VV. G. et B. N. G. et E.
 a festo Apost. Phil. et Jacob. quod tunc prox. erit post
 finem dictorum sexdecim annorum, usque ad finem et
 terminum xxi. annorum ex tunc proxim. sequen. et
 plenarie complend. absque impetitione alicujus vassi.

Hitherto of Fines and Concor ds.

SECT.

SECT. XII.

The Course how to sue out a Recovery in the Common Pleas.

YOU must first draw your *Precipe* in paper, and carry it to the Curfitor of the County where the Land lies, for him to make your *VVrit* of *Entry* in the post: which *Writ* when the Curfitor hath made you, carry it to the *Alienation*-office in the Temple; and there compound it with one of the Commissioners; then pay the fine to the Receiver who there attends to take it: And there you must have the *VVrit* of *Entry* entred and indorsed, with Mr. *Crewes* hand and two of the Commissioners hands more unto it; and then carry it back to the Curfitor to be sealed; which being done, it must thence go to the Kings Attorney for his hand unto it, where it will lodge a day or two.

Then if the Tenant of the Land appear in person, so that your Recovery is to be drawn at the Bar, then you must enter your *Precipe* in the *Prothonotaries* first remembrance, after this manner.

Suthr. ff. Pr. C. D. quod reddat R. T. unum messuagium & viginti acras terre cum pertinentiis in D. que clamat, &c.

In the margent of the Remembrance mark the appearance of those that are to be vouched, in this manner.

Tenens propr. persona voc. G. qui vocat H. &c.

Then

Then when you are ready to have it drawn at the Bar, having your Tenant and *Vouchees* ready, deliver the Remembrance into a Sergeants hand at the Bar, the Court being at leisure, and he will soon dispatch you.

If your recovery be with a single Voucher, it requires three Sergeants; if a double Voucher, there must be four Serjeants.

When this is done, draw your recovery, and make your VVrit of seisin, and enter and exemplifie your recovery, getting your VVrits of entry and seisin returned and filed.

The form of a Writ of Seisin upon a Recovery in Entry in the post.

Suth. R. *Carolus Secundus, &c. Vic. H. salutem. scias quod A. B. in Cur. nostra coram Justiciariis nostris apud Westm. recuperavit seisinam suam versus R. T. de uno messuagio cum pertin. in R. & H. per breve nostrum de ingressu super disseis. in le post. Et ideo tibi precipimus quod prefat. A plenar. seisin. de tenementis pred. cum pertin. sine dilat. habere facias. Et qualiter hoc precept. nostrum fueris execut. constare facias Justic. nostris apud Westm. a die Pasc. in quindena dies. Et habes ibi hoc breve. Teste, &c.*

The Return of the VVrit of Seisin.

Virtute istius brevis mihi directi, quarto die Februarii, Anno infra-scripti. habere feci infra-nominat. A. plenar. seisinam de tenetis infra-scripti. prout interius mihi precipitur.

A. B. Mil. Vic.

A recovery may also be sued out by *De dimissu potestatem*

Butem, if the Tenant do not appear at the Bar in person.

You must then have a *Sum. ad Warr.* against the Tenant: and at the ninth return after the return of the *VVrit* of Entry, accounting that for one, the *Writ* of Summons with the awarding of it, and Warrants of Attorney, whether taken before a Judge or by special Commissioners: if by special Commissioners, then the *Dedimus potestatem* and *Mittimus* all being filed together must be delivered to a Sergeant at the Bar, who with three more of them must then draw the recovery at the Bar, which is to be recorded by the Prothonotary: and then enter and exemplifie your recovery.

You may also, if you please, exemplifie both the *Writ* of Entry and seisin, with their returns, lest they should be misfiled or miscarried: and if you would search for any recovery long since acknowledged, you may properly find it with the Clerk of the Warrants.

Recoveries for assurances, &c.

IN every recovery are to be regarded the Demandant, the Tenant of the Land, and the Vouchee, as the efficient causes thereof; the Land demanded, as the matter, which must as certainly be set down in *VVrits* of Entry, as in *VVrits* of Covenant, whereupon fines are levied: The end and effect of such recoveries is to discontinue and destroy Estates Tails, remainders, and reversions, and bar the former owners thereof.

The Demandant is he that bringeth the *VVrit* of Entry, and may be termed the Recoverer.

The Tenant is he against whom the *VVrit* is brought, and may be termed the Recoveeree.

The

The Vouchee is he whom the Tenant voucheth or calleth to warranty for the Land in demand.

And such persons may be Demandants, Tenants, and Vouchees in these Recoveries, as may be Cognitors and Cognisees in Writs of Covenant, and by such names, *mutatis mutandis* : Saving that if any Recovery be had against any tenant in tail, the reversion or remainder being in the King, or the gift of the King, or of any of his Majesties Progenitors Kings of England, such Recovery will neither bar the issue in tail of his Entry, nor discontinue his estate, nor pluck such reversion or remainder out of his Majesty, 34 Hen. 8. cap. 20. *Quere tamen si tuel recoverie barre lissue in tail during the continuance of the estate tail.* Dyer, fol. 132. pla. 1.

Item, Before such persons, by such means, and in such manner may warrants of Attorney be knowledgeed and certified, as fines knowledgeed in the Country, saving that the recognisance of warrants of Attorney may be taken by any Justice or Sergeant without a VVrit of *Dedimus potestatem* : and fines must be paid upon VVrits of Entry as upon VVrits of Covenant : and all such VVrits of Entry must be signed by the Kings Attorney before they can be sealed.

In a Recovery with double voucher, the fine must be sued first, to make him tenant at the time of the writ of Entry brought ; for every writ of Entry must always be brought against him that is tenant of the freehold of the Land demanded, at the time of the writ brought. 18. R. 2. and Dyer, fol. 252. pla. 98.

And if the tenant have but an estate for life, or in dower, or by the courtesie, then to have a good Recovery thereof, it is meet that such tenant make a conditional Surrender of his estate to him in the reversion or remainder, to the end he may be a perfect tenant of the inheritance, and then to bring the writ of Entry against

against him, and after that the Recovery is executed, the particular Tenant for breach of the Condition may enter and enjoy his Term, notwithstanding such Surrender.

Of what things Writs of Entry may be brought, and by what names.

PRæcipe quod reddat *lieth*, de una acr. terræ, aqua cooperra, vel de acra terræ, 12 Henrici. sept. fo. 4. de gurgite, 10 Edward. 3. & 14 Edw. 3. 842. Fitz. natur. br. fol. 191. H. & de passagio ultra aquam, Fitz. natur. br. fol. 191. I. de balliva, 34 Edw. 3. 423. de officio, 27 Henrici octavi fol. 12. de advocacione Ecclesiæ, aut de quarta parte decimarum, 34 Edward. 3. de portione decimarum, Dier fol. 84. plac. 83. de quadam parcella terræ, Dier fol. 84. plac. 83. de custod. terræ & hæred', sive de custod. terræ. Registr. 161. 22 Edw. 3 fol. 19.

PRæc. quod reddat *lieth* of all manner of Ecclesiastical or spiritual profits : ut de rectoria, vicaria, porcionibus, pensionibus, decimis, &c. per statut. 32 Henr. 8. cap. 7. de omnibus & omnimodis decimis majoribus mixtis & minutis intra villam sive hamlet de B. in parochia de A. quoquo modo crescent. contingen. ac annuatim renovan. &c. The. li. 8. cap. 9. S. 2. de 4. parte decimarum & oblationum Ecclesiæ Sanct. P. &c. 16 Edw. 3. In old time de hida terræ, per Glanville, de carucatu terræ, 4 E. 3. 161. de bovat. terræ, 6 E. 3. 291. de sex pedibus terræ in longitudine, & 4 pedibus in latitud. 14 Ass. 13.

A Præcipe quod reddat *lieth* de tosto & situ molendini, 14 E. 3. de hundredo de C. & ballivato de B. 34 Edw. 1. 3 Edw. 3. de pastur. ad sex boves, 3 Ed. 3. fol. 23. 4 E. 2. de roda terræ, 3 E. 5. de advocacione, 34 Edw. 1. de quadam portione terræ, 11 Hen. 4. fol. 40.
5 Hen.

5 Hen. 7. fol. 9. de medietate unius rode terræ, 41 E. 3. de shopa, Registr. fol. 2. 2 de 4 acr. alnet. 11 Aff. 13. de turbar. by the name of More, 8 Ed. 3. fol. 387. and it lyeth in a Town, and not in a Hamlet, 8 E. 3. fol. 55. 7 E. 3. 9.

Of what things a Writ of Entry lyeth not.

PRæcipe quod reddat lyeth not. de fossato, nec de stagno, nec de piscaria, 8 E. 3. 381. nec de advocacione decimarum unius carucat. terræ. Registr. fol. 29. nec de communia pastur. 27 H. 8. fol. 12. de estoveriis, 2 E. 3. de homagio & fidelitat. nec de serviitiis faciendis, 6 E. 2.

A Præcipe quod reddat lyeth not de bovato. marisci, 13 E. 3. fol. 3. de selione terræ E. 1. for the incertainty, because a Selon which is a Land, somerimes containeth an Acre, sometime half an Acre, sometime more, and sometimes less. It lyeth not of a Garden, Cottage, or Croft, 14 Aff. 13. 8 Hen. 6. 3. 2 E. 4. 213. de virgata terræ 41. 43. 13 E. 3. de fodina, de minera, de mercatu, 13 E. 3. for they lie not in Demesne, but in Gain, nec de superiori camera, 3 H. 6. fol. 1.

A VVrit of Entry ought not to contain the same thing twice, as a messuage, and a house parcel of the same messuage, 3 Ed. 4. fol. 28. 46 E. 3. fol. 26. Nor to name a Town, and a Hamlet within the same Town, 22 Edw. 3. fol. 11. 41 Ed. 3. fol. 22.

In every VVarrant of Attorney it is good to put two Attorneys at the least, for fear of death.

In a County Palatine, as Lancaster, Duresm, Chester, &c. may be put in a VVarrant one Attorney, and one of the Justices Clerks.

If the Writ of Entry be returnable Crastino Martini, the VVrit of Summons ad warr. thereupon must bear

Teste

Teste from the return of *Craftino Martini*, and be returnable 9 Returns, after the return of the Writ of *Entry* inclusive; that is, accompting *Craftino Martini* for one of the nine returns, and *tres Pasche*, which is the ninth return after *Craftino Martini*, for another. And the *Teste* of the Writ of *Seisin* must be the day of that ninth return, and be returnable fifteen dayes after. Then the Writ of *Seisin* may be returned, that *Seisin* was delivered by vertue thereof to the Demandant, by the Sheriff of the County, where the Lands lie, upon any day (not being Sunday) between the *Teste* and return of the said Writ of *Seisin*. Then the Writs of *Entry*, *Summons* and *Seisin* must be returned and filed with the *Custos breviarum*, and the Judgments entred by the Preignotary, and the Warrants of Attourney by the Clerk of the Warrants.

If a single recovery and a fine be against the Tenant, the Writ of *Entry* must bear date and *Teste*, before the Writ of *Covenant*, and be returned before.

If a Writ of *Covenant* be brought against the Tenant, and a Writ of *Entry* against the Demandant; then the Writ of *Covenant* must bear date, and be returned before the Writ of *Entry*. And this is called a double Voucher.

A Certiorari to the Executor of the Justice, before whom the Warrants were acknowledged.

Carolus dei gratia Angl. Scot. Franc. & Hiberniæ Rex fidei defensor. &c. dilecto sibi I. R. ar. executori testamenti Fr. R. nuper unius Justic. nostrorum de banco, salutem. Volentes certis de causis certiorari tam super quodam warrant. atturn. per quod H. S. posuit loco suo W. B. & R. C. conjunctim & divisim versus R. P. alias W. & R. H. de placito terræ in
comi-

comitat. E. quam super quodam alio warrant. ar-
turn. per quod H. L. & I. L. quos prædictus H. S. voc.
de warrant. posuerunt locis suis A. B. & F. R. con-
iunctim & divisim versus prædict. R. & R. H. de pla-
cito terræ in dicto comit. E. per præfat. F. R. nuper
capt. ac in custod. tua ratione executionis testamenti
prædicti existen. ut dicitur. Tibi præcipimus quod
warrant. prædict. Justic. nostris de banco apud West-
monast. sub sigillo tuo distincte & aperte sine dilati-
one mittas & hoc breve, ut iidem Justic. inspect. war-
rant. prædict. ulterius in quodam brevi nostro de
ingr. penden. coram præfat. Justitiariis nostris apud
Westmon. inter præfat. R. & R. H. & prædictum H.
S. de uno messuagio, &c. cum pertinentiis in T. &
D. in comitat. prædicto, & process. inde fieri fac,
quod de jure, & secundum consuetudinem regni no-
stri Angl. fuerit faciend. T. Me ipso apud Westmon. 29.
die Nov. Anno regni nostri 20.

It is returned thus :

Respons. infranominati I. R. ad hoc breve.

Execut. istius brevis patet in quadam schedula huic
brevi annex.

Ebor. ss. Præc. H. S. quod juste, &c. Redd. R. P. a-
lias W. & R. H. unum messuagium, &c.
cum pertinen. in T. & D. quod clam.
&c.

Ebor. ss. H. S. po: lo: suo, W. B. & R. C. conjunctim
& divisim versus R. P. alias W. & R. H.
de placit. terr.

Ebor. ss. H. L. & I. L. quos H. S. voc. ad warrant.
po: lo: suo A. B. & F. R. conjunctim & di-
visim versus R. P. alias W. & R. H. de
placito terræ.

Capt. & cognit. apud W. in comit. C. xvii. die
Febr. Anno regni domini Carol. &c. xx. I.R.

A recovery with single Voucher.

Exor. ff. **P** Rec. G. C. armigero quod iuste, &c. redd.
R. C. & R. I. unum messuagium & qua-
tuor acr. terr. cum pertin. in T. quæ clam.
&c. Et in quæ, &c. Et nisi, &c.

G. C. po: lo: suo, N. M. & M. M. attorn. suos con-
junct. & divisim versus R. C. & R. I. de placito
terræ.

A recovery with double Voucher.

Derb. ff. **P** Rec. N. L. & M. uxori ejus quod iuste, &c.
redd. T. S. & T. C. Maneria de N. M. &
P. cum pertin. ac 30 Mess. 30 tosta, 5 molendina,
30 gardin. 30 pomaria, 1000 acr. terræ, 1000 acr.
prati, 500 acr. pastur. 40 acr. bosci, 1000 acr. moræ,
200 acr. jampnorum & bruer. & 3 libras redd. cum
pertin. in N. M. P. P. & B. que clam. esse jus & hered.
suam, & in que idem N. & M. non habent ingr. nisi
post disseisinam quam H. H. injuste & sine judicio fecit
prefatis T. & T. infra 30. an. jam ultimo elapsos, &c.
ut dic. unde quer. &c. Et nisi, &c.

Derb. ff. **M. L. & M. uxor ejus po: lo: suo, T. B. &
W. B. attorn. suos conjunctim & divisim
versus T. S. & T. C. de placito terræ ad
lucrand. vel perdendum.**

Derb. ff. **W. B. & T. F. quos N. L. & M. uxor ejus vo-
cant ad warr. po: lo: suo, P. P. & Q. Q.
attorn. suos conjunctim & divisim versus
T. S. & T. C. de placito terræ ad lucran-
dum vel perdendum.**

A recovery with a treble Voucher.

Essex ff. P^{Rec.} R. B. & C. S. quod iuste, &c. red-
dant A. T. armig. Maner. de B. & Q.
cū pertin. ac 20. messuag. duodecem tosta, quatuor
Columbar', mille acr. terr. C. acr. prati, C. acr. pastur.
C. C. acr. jampnor. & brueræ, C. acr. mora, & triginta
Solid. & unum obol. reddit. ac reddit. unius libre &
dimidii piperis, & unius gran. piperis cum pertin. in B.
& Q. Ac liberam piscariam in aqua de W. necnon
advocationem Ecclesiæ de B. quæ clam. &c.

Essex ff. R. B. & C. S. po: lo: suo, W. W. & R. R. at-
torn. suos conjunctim versus A. T. de pla-
cito terræ.

Essex ff. M. M. gen. quem R. B. & C. S. vocant ad
warran. po: lo: suo, I. I. & L. L. attorn.
suos conjunctim & divisim versus A. T. de
placito terræ.

Essex ff. G. W. gen. quem M. M. voc. ind. ad warr.
po: lo: suo, R. G. & R. S. attorn. suos con-
junctim & divisim versus A. T. de placito
terræ.

*A Recovery of an Advowson, in the County Palatine
of Chester.*

PLacita apud Cestr. coram R. T. milite, Justic. domi-
ni Regis apud Cestr. de Sessione tent. ibidem die
Jun. ultim. die Septembris Anno regni Caroli Dei
gratia Angl. Scot. Franc. & Hibern. Regis fidei detentor.
& in terr. Ecclesiæ Angl. Scot. & Hiberniæ supre-
mi capitis 35.

Chesh. ff. H. S. armiger per T. B. attorn. suum petit.
versus H. D. armigerum advocacionem Ecclesiæ de T.
quam ei injuste deforc. &c. Et unde dic. quod ipse
met

met fuit seifit. de advocatione Ecclesiæ præd. ut de feod. & jure infra 30. annos jam ultimo elapfos tempore pacis, tempore domini Regis nunc, & sic inde seifit. eodem tempore ad eandem Ecclesiam præsentavit quendam R. A. Clericum suum qui ad præsentationem suam fuit admissus, institutus & inductus in eadem: Capiendo inde explec. ut in gossis decimis, minutis decimis, oblationibus & obventionibus ad valenc. &c. ut de jure Ecclesiæ suæ prædictæ, &c. Et quod tale sit jus suum offert, &c.

A Recovery in a Writ of right de Præcipe in Capite.

Carolus Dei gratia, &c. Omnibus ad quos præfentes literæ patentes pervenerint salutem. Scias quod I. Comes S. in curia nostra coram Justiciariis nostris apud Westm. per breve nostrum de recto de præcipe in capite petiit versus T. B. seniore & I. uxorem ejus manerium de C. cum pertin. ac unum Mess. 50 acr. terræ, 50 acr. prati, &c. cum pertinent. in C. C. B. H. juxta T. ut jus & hæreditatem suam: quod quidem breve una cum retorn. ejusdem ac placitum super idem breve cum omnibus aliis placitum illud tangentibus sequit. in hæc verba.

Carolus Dei gratia, &c. Vicecom. Heref. salutem. Præcipe T. B. seniori, & I. uxori ejus, quod juste & sine dilatione reddant I. Comiti Salop. manerium de C. cum pertinentiis, ac unum messuag. &c. cum pertinentiis in C. B. & H. juxta T. quæ clamat esse jus & hæreditatem suam, & tenere de nobis in capite. Et unde queritur quod prædict. T. & I. ei injuste deforceant. Et nisi fecerint, & prædict. Comes fecerit te secur. de clamore suo proseq; tunc summ. per honos summon. prædictos T. & I. quod sint coram Justiciariis nostris apud Westmonasterium a die Paschæ in quindecem dies, ostens. quare non fecer. Et habeas

ibi summ. & hoc breve. Teste meipso apud Westmonasterium secundo die Aprilis, Anno Regni nostri vicissimo tertio.

Pleg. de prosequend. R. C. & I. R.

Responso I. S. Militis Vicec. Summ. T. B. & I. uxor. ejus infra script. H. F. & R. I.

Placit. apud Westmonast. coram I. P. & sociis suis Justiciar. domin. Reg. de banco de termino Pasche, anno Regni, &c. 6 Rotulo C. C.

Heref. ff. Joh. Comes Salop. per I. S. Attornatum suum, petit versus T. B. sen. & I. uxorem ejus manerium de C. cum pertinentiis, ac unum messuagium, &c. cum pertinentiis in C. B. & H. juxta T. per breve domini Regis de præcipe in capite, &c. Et unde dicit quod ipsemet fuit seiscitus de manerio, messuag. terr. &c. cum pertinentiis, in dominico suo ut de feodo & jure tempore pacis tempore domini Regis nunc, capiendo inde explec. ad valentiam, &c. Et quod tale sit jus suum offert, &c.

Et prædicti T. & I. per W. B. Attornatum suum, vener. & defendunt jus prædict. Comitris & seisinam suam, & maxime de manerio, messuag. &c. ei warrant. &c. & super hoc prædictus Comes petit versus ipsum W. P. manerium, messuagium, &c. cum pertinentiis in forma prædicta, &c. Et unde dic. quod ipsemet fuit seiscitus de prædict. Manerio, messuag. &c. cum pertinentiis, in dominico suo ut de feodo & jure, tempore pacis, tempore domini Regis nunc, capiend. inde explec. ad valentiam, &c. Et quod tale sit jus suum offert, &c.

Et prædictus W. P. tenens per warrant. suam defendit jus prædict. Comitris & seisinam ejus, & maxime de manerio, messuag. terr. &c. cum pertinentiis, & totum, &c. Et ponit se inde in magnam Assisam domini Regis, & petit. recogn. fieri utrum ipse magis

us habeat tenend. manerium, messuagium, terr. &c.
um pertinentiis, ut tenens per warrant. suam, ut ea
nent, an prædictus Comes habend. Manerium, mes-
uag. terr. &c. cum pertinentiis, ut ea superius per, &c.
Et prædictus Comes petit licentiam inde interloquend.
&c. Et habuit, &c.

Et postea idem Comes per Attornatum suum præ-
dict. reven. hic in Curia, & prædict. W. P. licet solem-
niter exact. non reven. sed in contempt. cur. defal-
sam fec. Ideo considerat. est quod prædict. Comes recu-
peret seisinam suam versus prædict. T. & I. de præd.
maner. messuag. &c. cum pertin. tenend. eidem Co-
miti & hæred. suis quiete de prædict. T. & I. & hære-
dibus suis in perpetuum.

Et predicti T. & I. habeant de terr. predict. W. P.
ad valentiam manerii messuag. terr. &c. prædict.
cum pertinentiis. Et prædict. W. P. in misericordia,
&c.

Warrant. Attornat. inde sequitur in hec verba.

*Heref. ff. Joh. Comes Salop. po: lo: suo I. S. versus T.
B. seniore, & I. uxorem ejus de placito terræ.*

*Heref. ff. T. B. senior & I. uxor ejus, po: lo: suo, W.
B. versus Joh. Comitem Salop, de placito terræ.*

Quæ omnia & singula ad requisitionem predicti
Comitis exemplificari fecimus, & magnum sigillum
nostrum, quo utimur ad hujusmodi exemplificationes,
necnon ad quæcunque brevia judicialia extra ban-
cum prædict. exeunt. sigilland. præsentibus appo-
ni fecimus. Teste I. P. apud Westmonasteri-
um XVIII. die Maii, anno Regni nostri vicesimo
tertio.

Remissio Curiae in brevi de Recto.

EXcellentissimo Principi Domino C. Dei gratia, &c. T. W. salut. in eo per quem Reges regnant, & Principes dominantur. Quia A. in curia vestra coram Justiciariis vestris de Banco per breve vestrum de Recto D. E. de uno messuag. cum pertinen. in S. quod de me tenetur, licentia mea mediante proponit implacitare, vestrae Celsitudini Regiae tenore presentium significo, me cur. meam vobis inde hac vic. remisisse. Salvo mihi alias jure domini in casu consimili cum acciderit. In cujus rei testimonium has literas meas feci patentes, sigillo meo signat. Dat. tertio die Maii, Anno regni, &c.

The exemplification of a Recovery enrolled according to the Statute 23 Eliz. cap. 3.

Carolus, Dei gratia, Angliae, Scotiae, Franciae, & Hiberniae Rex, fidei defensor, &c. Omnibus ad quos presentes literae nostrae pervenerint salutem: Sciatis quod inter Irrotulamenta brevium & aliorum dependen. pro communibus recuperationibus secund. formam statuti de termino Pasche apud Westmon. Anno regni Eliz. 29. Rotul. primo, continetur sic:

Essex. ff. Elizabeth, Dei gratia, Angliae, Franciae, & Hiberniae Regina, fidei defensor. &c. vic. Essex salutem. Precipe I. W. & I. S. quod juste & sine dilatione reddant Jo. St. & T. P. quatuor messuagia, quatuor gardina, 200 acras terrae, 100 acras prati, trecentas acras pasturae, quadraginta acras bolci, & 300 acras jampnorum & bruege, cum pertinen. in B. T. T. C. D. & H. quae clamant esse jus & hereditatem suam. Et in quae iidem Joh. W. & I. S. non habeant ingressu nisi post disseisinam quam H. H. inde injuste &

& sine iudicio fecit prefat. I. S. & Tho. infra triginta annos jam ultimo elapsos ut dicunt. Et unde queruntur quod predicti I. W. & I. S. eis deforc. Et nisi fecerint & predicti I. S. & Tho. fecer. te secur. de clamore suo prof. tunc summ. per bonos summ. predictos I. W. & I. S. quod sint coram Justiciariis nostris apud Westmonast. a die Sanct. Michaelis in quindecim dies, ostensuri quare non fecerint. Et habeas ibi summ. & hoc breve. Teste meipso apud Westm. 24. die Septemb. anno regni nostri decimo. Gibon pleg. de prof. Joh. Doo, Rich. Roo. Summ. Joh. Den, Richard. Fen, G. T. armig. vic. ff.

Elizabeth, Dei gratia, Angl. Franc. & Hiberniæ Reg. fidei defens. &c. Vic. Essex salut. Summ. per bonos Summ. E. W. armigerum & uxor. ejus, quod sint coram Justiciariis nostris apud Westm. a die Sancti Hilarii in xv dies ad warr. Joh. W. & I. S. quatuor messuag. quatuor gardin. 200 acras terræ, centum acr. prati, 300 acr. pasturæ, quadraginta acr. bosci, & 300 acr. jampnorum & bruere, cum pertin. in B. T. T. C. D. & H. quæ Jo. St. & Tho. P. in curia nostra coram Justiciariis nostr. apud Westmon. clam. ut jus suum per breve nostrum de ingress. super disseisinam in lepest versus eos. Et unde iidem Joh. W. & I. S. in eadem cur. nostr. voc. predictos Edm. & Joh. Summ. in comit. tuo ad warr. versus eos. Et habeas ibi Summ. & hoc breve T. I. D. apud Westm. xvi. die Octobris, anno regni nuper decimo. Lone. Summ. Johannes Den, Ric. Fen, T. L. ar. vic. ff. Jo. St. & Tho. P. po. lo. suo R. E. versus Johannem W. & I. S. de placito terræ ff. Johannes W. & I. po. lo. suo I. A. versus Joh. St. & Tho. P. de placito terræ ff. Edmundus W. armig. & Johanna uxor ejus quos Johannes W. & I. S. voc. ad warr. po. lo. suo R. C. versus Jo. S. & Tho. P. de placito terr. Quæ omnia & singula ad requisitionem Will. W. generos. tenore presentium duximus execut.

exemplificand. In cujus rei test. sigill. nostr. ad brevia in Banco sigilland. deputat. presentibus apponi fecimus T. F. W. P. & F. R. Justic. de Banco predicto apud Westmonast. xvi die Junii, anno regni nostri vicesimo nono.

*M. The Judges which examined
their enrollment.*

*M. W. P.
& R.*

Perdon. alien. super ter. per breve de ingressu recuperat.

REx, Omnibus ad quos, &c. salutem. Cum prædilectus & fidelis consanguineus nostr. T. Dux Norf. Comes Marescallus Angl. & prenobilis ordinis garterii miles, ac dilect. & fideles nostri W. C. miles principalis Secretar. nostr. R. Carl. miles nuper scilicet termino, &c. Anno regni nostri, &c. recuperaverunt versus predictum & fidelem consiliarium nostrum N. B. milit. dominum custod. magn. sigilli nostri Angl. ex ejus essensu & ad ejus requisitionem per breve nostr. de ingressu super disseisinam in le post secundum cursum, formam & usum communium recuperation. Maner. de Redgrave, &c. in conit. nostr. Suff. ad diversos seperales usus, intention. condition. & proposita, specificat. & declarat. in quibusdam Indentur. factis inter ipsum N. ex una parte, & prefatos Ducem W. R. &c. ex altera parte gerent. dat. secundo die Octobr. anno regni nostri primo, prout per easdem Indentur. plenius apparet, cumque etiam iidem dux W. R. &c. in maner. terr. tenement. & cætera premissa, cum pertin. virtute recuperac. predict. intraverunt, licentia nostra Regia inde prius non obtent. Et de eisdem premissis fuerunt seisit. in dominico suo ut de feodo, ad usus, intentiones, & proposita in predict. Indentur. specificat. & declarat. Quæ quidem maner. messuag. & tenement. & cætera premissa de nobis tenentur in

in capite, ut dicitur. Sciatis quod nos de gratia nostra speciali, ac ex certa scientia, & mero motu nostris, salvo nobis homag. nostr. perdonamus, remittimus & relaxamus pro nobis hæred. & successoribus nostr. transgress. in ea parte fact. ac omnimod. intrationes, & ingressus in prædicta Maner. terr. tenement. & cætera premissa seu aliquam inde partem sive parcellam, tam ante præsentem diem quoquo modo fact. sive perpetrat, quam imposter. ration. alicujus usus in prædict. Indentur. specific. seu declar. fiend. seu habend. Et ulterius concessimus, ac pro nobis hæred. & successorib. nostr. quant. in nobis est, per præsentem concedimus prætat. Duci, W.R. & c. quod ipsi maneria, messusg. terr. & tenement. prædicta, ac cætera premissa cum omnibus & singulis suis exit. reddit. profic. & pertin. quibuscunque (except. præexcept.) habeant & teneant sibi ac hered. & assign. suis, ad usus, intentiones, & proposita in Indentur. prædict. content. & specificat. de nob. hæred. & successoribus nostr. per servicia inde debita & de jure consueta in perpet. absque impet. molest. vexatione, impedimento, seu gravamine, nostri, hæred. vel successor. nostr. aut aliquor. Justic. Escaetor. Vice-comit. Ballivor. aut aliorum officiar. ministror: seu subditor. nostro. aut hæred. vel successor. nostror. quorumcunque. In cujus rei, & c.

And it is to be noted, that of all Licenses to alien temporal land in Mortmain, the fine to the King is five years value of the same.

Of al. Licenses to alien spiritual land (as appropriations of Churches, or other benefices spiritual) the fine to the King is four years value thereof.

Of all Licenses of alienation made of lands holden of the King in capite, the fine is the third part of the value, the Tenth deducted.

of

Of all pardons of alienation by the Kings Tenant in capite, the fine is one years value thereof.

Of Licenses of Marriage of the Kings widow, the fine is the third part of the value of her Dowry by a year.

Of all pardons of the Kings widows married without License, the fine is the whole value of her Dowry by a year.

Exemplification of a Recovery with double Voucher out of the Prothonotaries Office.

CAROLUS Dei gratia Angl. Scot. Franc. & Hiberniæ

Rex, fidei defensor. &c. Omnibus ad quos præsentēs literæ nostræ pervenerint salutem. Sciatis, quod inter placita terræ irrotular. apud Westm. coram E. A. Milite & sociis suis Justiciar. nostris de banco, Termin. S. Hill. anno Regni Eliz. 36. Rotul. x. continetur sic.

Eborum. ff. Fr. W. & R. S. in propriis personis suis, pet. versus I. R. duodecem acr. prati cum pertinentiis in M. & K. ut jus & hæreditatem suam, Et in quas idem I. non habet ingressum nisi post disseisinam, quam H. H. inde injuste & sine judicio fecit præfat. Fr. & R. infra triginta annos, &c. Et prædictus I. per W. W. Attornatum suum venit, & alias voc. ad warrant. T. R. armigerum, qui modo per summ. ei in comitatu prædict. fact. per T. I. attornatum suum venit, & gratis prædictas duodecem acras prati cum pertinentiis ei warrant. &c. Et super hoc prædict. Fr. & R. pet. versus ipsum T. tenen. per warrant. suam prædictas duodecem acr. prati cum pertinentiis in forma prædicta, &c. Et unde dic. quod ipsimet fuerunt seisi de prædictis duodecem acr. prati cum pertinentiis in dominico suo ut de feodo, & jure, tempore pacis, tempore Dominæ Reginæ nunc, capiend. inde explec. ad valenc.

valer. &c. Et in quas, &c. Et inde produc. sectam
&c. Et predictus T. tenens per warr. suam defendit
jus suum quando, &c. Et ulterius voc. inde ad war-
rant. R.H. qui præsens est hic in Curia in propria per-
sona sua. Et gratis predict. duodecem acr. prati cum
pertinentiis ei warrant. &c. Et super hoc predict.
Fr. & R.S. per. versus ipsum H. H. tenen. per warr. su-
am predictas duodecem acras prati cum pertinentiis in
forma predicta, &c. Et unde dic. quod ipsimet fue-
runt seisi de predictis duodecem acr. prati cum per-
tinen. in dominico suo ut feodo, & jure, tempore pacis
tempore dominæ Reginæ nunc, capiendo inde explec.
ad valentiam, &c. Et in quas, &c. Et inde produc.
sectam, &c. Et predictus R. H. tenens per warrant.
suam defend. jus suum quando, &c. Et dic. quod pre-
dict. H. non disseisivit prefat. Fr. & R. S. de predictis
duodecem acr. prati cum pertinentiis, prout iidem Fr.
& R. per breve & narrationem sua predict. superius
supponunt. Et de hoc ponit se super patriam, &c.
Et predicti Fr. & R. S. per. licentiam inde interlo-
quendi. Et habent, &c.

Et postea iidem Fr. & R. reven. hic in Curia isto eo-
dem termino in propriis personis suis. Et predictus
R. H. licet solemniter exact. non reven. sed in con-
temptum Curie recessit, & defaltam fecit. Ideo con-
siderat. est quod predict. Fr. & R. S. recuperent seisin-
nam suam versus prefat. I. de predictis duodecem acr.
prati cum pertinentiis. Et quod idem I. habeat de ter-
ra predict. T. ad valentiam, &c. Et quod idem T.
ulterius habeat de terr. predict. R. H. ad valentiam,
&c. Et idem R. in misericordia, &c. Et super hoc pre-
dicti Fr. & R. S. petunt breve dominæ Reginæ vice-
com. comitat. predict. dirigend. de habere faciendo
eis plenariam seisinam de predictis duodecem acr. pra-
ti cum pertinentiis. Et eis conceditur, retornabile hic
a die Pasche in quindecim dies, &c. Quæ omnia &
singula

singula ad requisitionem predictorum Fr. & R. S. tenore presentium duximus exemplificand. In cujus rei testimonium sigillum nostrum ad brevia in banco predicto sigilland. deputat. presentibus apponi fecimus Teste E. A. apud Westmonasterium duodecimo die Februarii, Anno regni nostri 36.

When the writ of Seisin is returned, the return thereof must be entred upon the same Roll, whercon the judgement was entred, as appeareth in the end of this Section.

Another to the like effect

CArolus dei gratia Angl. Scot. Franciæ, & Hiberniæ Rex fidei defensor. &c. Omnibus ad quos presentes literæ nostræ pervenerint salutem. Sciatis quod inter placita terræ irrotulat. apud Westm. coram E. A. Milite & sociis suis Justiciariis nostris de banco, scilicet Termino Michaelis, Anno regni Eliz. tricesimo quinto, Rotulo 12. continetur sic.

Notting. ss. R. T. & R. B. in propriis personis suis petunt versus P. T. generosum, & W. H. generosum, maneria de H. & M. cum pertinentiis, ac viginti messuagia, decem tosta, unum molendinum equinum, duo columbar: triginta gardina, quingent. acras terre, ducent. acras prati, sexcent. acras pasture, trecent. acras bosci, mille acras jampnorum & brueræ, quingent. acras moræ, & viginti solidos redd. cum pertinentiis in H. M. D. &c. ut jus & hereditatem suam. Et in quæ iidem P. & W. non habent ingressum, nisi post disseisinam, quam H. H. inde injuste & sine judicio fecit prelar. R. & R. infra triginta annos, &c. Et unde dicunt quod ipsimet fuerunt seisciti de maneriis, tenementis, & redditu predictis cum pertinentiis, in dominico suo ut de feodo, & jure, tempore pacis, sem.

tempore dominæ Reginæ nunc, capiendo inde explec. ad valenc. &c. Et in que, &c. Et inde producunt sectam, &c.

Et predicti P. & W. in propriis personis suis venerunt & defend. jus suum quando, &c. Et voc. inde ad warrant. G. M. generosum, qui presens est hic in Curia in propria persona sua. Et gratis, maneria, tenementa, & redditus Predict. cum pertinentiis, eis warrant. &c.

Et super hoc predicti R. & R. petunt versus ipsum G. tenen. per warrant. suam maneria, tenementa, & redditus predicta cum pertinentiis in forma predicta, &c. Et unde dicunt quod ipsimet fuerunt seistiti de maneriis, tenementis, & redditu predictis cum pertinentiis in dominico suo ut de feodo, & jure, tempore pacis, tempore domine Regine nunc, capiendo inde explec. ad valentiam, &c. Et in que, &c. Et inde producunt sectam, &c.

Et predictus G. tenens per warrant. suam defendit jus suum quando, &c. Et ulterius voc. inde ad warrant. D. H. qui similiter presens est hic in Curia in propria persona sua, & gratis maneria, tenementa, & reddit predict. cum pertinentiis ei warrant. &c.

Et super hoc predicti R. & R. petunt versus ipsum D. tenent. per warrant. suam maneria, tenementa, & reddit. predicta cum pertinentiis in forma predicta, &c. Et unde dicunt quod ipsimet fuerunt seistiti de maneriis, tenementis, & reddit. predictis cum pertinentiis in dominico suo, ut de feodo, & jure, tempore pacis, tempore dominæ Reginæ nunc, capiendo inde explec. ad valentiam, &c. Et in que, &c. Et inde producunt sectam, &c.

Et predictus D. tenens per narrationem suam defendit jus suum quando, &c. Et dicit quod predictus H. non disseisivit prefatos R. & R. de maneriis, tenementis, & redditu predictis cum pertinentiis, prout
iidem

iidem R. & R. per breve & narrationem sua predicta superius suppon. Et de hoc ponit se super patriam, &c. Et predicti R. & R. petunt licentiam inde interloquendi. Et habent, &c.

Et postea iidem R. & R. reven. hic in Curia isto eodem termino in propriis personis suis. Et predictus D. licet solemniter exact. non reven. sed in contemptum Curie recessit, & default fecit. Ideo confideratum est quod predicti R. & R. recuperent seisinam suam versus prefatos P. & W. de maneriis, tenementis, & redditu predictis cum pertinent. Et quod iidem P. & W. habeant de terra predicti G. ad valentiam, &c. Et quod idem G. ulterius habeat de terr. predicti D. ad valentiam, &c. Et idem D. in misericordia, &c. Et super hos predicti R. & R. petunt breve domine Regine Vicecomiti comitatus predicti. dirigend. de habere faciend. eis plenariam seisinam de maneriis, tenementis, & redditu predictis cum pertinentiis. Et eis conceditur, returnabile hic a die S. Martini in quindecem dies.

Ad quem diem hic venerunt predicti R. & R. in propriis personis suis. Et Vicecomes scilicet I. B. Miles modo mandat, quod ipse virtute brevis illius sibi directi vicesimo quarto die No. ultimo preterit. habere fecerit prefatis R. & R. plenariam seisinam de maneriis, tenementis, & redditu predictis cum pertinentiis, prout per breve illud sibi preceptum fuit, &c. Que omnia & singula ad requisitionem predictorum R. & R. tenore presentium duximus exemplificand. In cujus rei testimonium sigillum nostrum ad brevem in Banco predicto sigilland. depurat. presentibus apponi fecimus. Teste, &c. Anno regni nostr. 26.

SECT. XIII.

Actions of Debt.

WE shall now direct our Solicitor how to manage his proceedings in several actions both real and personal, and first of Debt.

An action of debt lies properly, where one man oweth another a sum of money by Bond, Bill, Bargain or Contract, which is certain.

If a man owe another 10 pound, and hath a note of his hand for it without a seal, an action of debt lies for it upon a *mutuus*; but herein the defendant may wage his Law: but an action of the case lies herein also, and in that the defendant cannot wage his Law.

If a man deliver Cloth to a Taylor to make him cloaths, and agree with the Taylor upon the price for making thereof; here in case of non-payment the Taylor may have an action of debt; but if the price be not agreed upon, then there lies only an action of the case *quanto meruit*, &c.

Upon any Specialty if money be due, an action of debt only lies.

Debt lies also against an heir of the *Obligor*, if the executors have not sufficient; but *nihil per discesum* is a good plea for the heir.

If a man marry a woman in debt, he is liable to pay her debts during the coverture; but after her death he is not, unless there be a Judgement against them both during the marriage: if there be, he must satisfy that Judgement.

If a *feme sole* hath a lease of land for life, rendering rent, and marries, and then the rent is behind, and she wife dyes, an action lies against the husband for

this rent, because he received the profit of the land.

If a *feme sole* have owing her 100 pounds by Bond, and marries and dyes, the husband shall not now recover this money unless he take Administration of the goods of his wife.

So if there be two *Obligees*, and one dye, the Bond accrues to the Survivor only; and the executors of him that dyes shall not joyn nor have any profit thereby.

A man shall be charged for his bailiffs or servants Contract, where he gives warrant to his servant to buy and sell for him; And if a wife contract, having authority from her husband, he is bound to perform it, otherwise not.

Upon a Bond and Bill penal for several sums of money, an Action of Debt lies till all the days be past: it is otherwise upon a single Bill; for there after the first failure an Action lies.

But if a man be bound in a Recognizance to pay a 100 pounds at five several days, after the first failure of the first sum, he shall have execution for that sum, and shall not stay till the last day be past: And so it is for a Covenant or Promise, after the first default an Action of Covenant lies for the one, and an Action of the Case for the other.

If a man covenant by word of mouth to do such an act for a certain sum of money, and take 12 pence or more in earnest, and a day is set down for the residue; if he do it not accordingly, an action of Debt lies not here, but an action upon the case.

If a man delivers wares to another for 10 pounds to be paid at a certain day, if the money be not paid at the day, an action of Debt lies upon the *Emisset*; and herein the defendant may wage his Law; or he may bring an action of the case, and there the defendant cannot wage his Law.

A *president* in an *Emisset* for goods sold and delivered.

A. T. is plaintiff in an *Action* upon an *Emisset* against J. H. The plaintiff sets forth in his *Declaration*, That he bought so many parcels of stuff at several days as came to thirty pounds, and lays a *mutuatus* for ten pounds more, which is in all forty pounds, *per quod actio*, &c.

The defendant to the *Emisset* pleads *deins age*, and so likewise to the *mutuatus*.

Quoad xxx l. de predictis. xl l. quas predictis. quer. virtute emptionis predictis. superius exigit versus eum, dic. quod predictis. quer. actio non, &c. quia dic. quod ipse tempore emptionis predictis. fuit infra aetatem 21 annorum. Et hac parat. &c. unde petit iudicium si, &c. Et quoad predictis. decem libras de deb. predictis. quas predictis. quer. virtute mutui predictis. similiter. exigit versus eum, dic. quod actio non, &c. quia dic. quod ipse tempore mutui predictis. similiter. fuit infra aetatem 21 annorum. Et hoc parat. est verificare. unde petit iudicium si actio, &c.

The Plaintiff replies as to the *mutuat*. that the defendant non fuit infra aetatem, and issue sur ceo : And as to the *Emisset*, that the wares were bought for necessary apparel.

Et predictis. quer. quoad pred. placitum pred. def. quoad pred. xl. quas predictis. quer. virtute mutui predictis. exigit versus eum, pracludi non &c. quia dic. quod pred. def. tempore ejusdem mutui fuit plena aetatis 21 annorum, & amplius, & non infra aetatem, prout pred. def. superius allegavit. Et hoc petit quod inquiretur per patriam & pred. def. similiter. Et quoad predictis. alterum placitum pre-

dist. def. quoad pred. xxx l. quos ipse virtute emptionis
pred. superius exigit versus eum, idem quer. dic. quod pra-
cludi non, &c. quia dic. quod pred. mercimonia per pre-
fat. def. de eodem quer. in forma pred. empti, fuerant
empti. de eodem quer. pro necessario apparat. et vestit. cor-
poris pred. def. grad. suo eadem requiren. Et hoc, &c.

The Defendant rejoyns as to the Wares, they were
not bought for necessary apparel, and issue is
joyned thereupon.

ET pred. def. quoad pred. placitum pred. quer. quoad
pred. xxx. l. per eundem def. virtute emptionis pred.
superius exact. replicand. placitat. dic. quod pred. merci-
monia per ipsum in forma pred. empti, non empti fuerunt
de pred. quer. pro necessario apparat. et vest. corporis ipsi-
us def. prout pred. quer. superius inde allegavit. Et de
hoc ponit se super patriam, &c. Ideo quoad triand. tam
exitum istum quam, &c.

And upon the Tryal the Jury find quoad le emissit,
that part to be for necessary apparel, and so it was im-
ployed. Et assid. dampna ipsius quer. ad 3 l. ultra mil.
&c. et pro mis. &c. ad 20 s.

And quoad le mutuatur. the Jury find the Defendant
to be within Age, &c.

Then Judgement is entred up thus, viz.

Ideo conf. est, quod pred. quer. recuperet versus prefat.
def. 30 l. de deb. pred. et dampna sua pred. ad 4 l. per
Jur. pred. in forma pred. assess. necnon 6 l. et 8 d. eidem
quer. ad requisitionem suam promiss. et custag. suis pre-
dist. per curiam hic de incremento adjudicat. qua quidem
dampna in toto se attingunt ad 10 l. et 8 d. Et pred. def. in
mia. Et similis pred. quer. in misericordia pro falso cle-
more suo versus prefat. def. de resid. deb. pred. unde ipse ac-
quiescit

quietat. existit, &c. Et idem def. eat inde sine die, &c.

An Infant is liable to pay for his meat, drink, cloaths, physick, reaching, &c. and cannot plead under age to any of these: but if he shall bind himself by Bond for the payment of any of these, he may plead *infra statem* to that Bond.

An Infant may sue by his *prochein amy*, and defend by his guardian.

If a man have obtained a judgment against another in any Court of Record, he may bring an action of debt upon that judgment; to which the defendant may plead *nil riel Record*.

An action of Debt lies for an Amerciament in a Court Baron.

When a judgment is satisfied, the Plaintiff is to acknowledge satisfaction upon Record, at the request and charges of the defendant; the form whereof is this:

Postea, scilicet, nono die Junii, Anno Regni Domini Regis nunc decimo septimo, ven. hic in cur. pred. quer. per R. T. Artorn. suum per speciale Warrantum ei in hac parte constitut. & cognovit quod satisfactum est ei de deb. dampnis pred. Ideo pred. def. de deb. & dampnis illis sit quiet. &c.

If an action of debt be brought for 40 l. and the plaintiff declares upon a Bond of 30 l. for part, and a *mutual* for 10 l. resid. the defendant confesseth the action of 30 l. Bond; and as to the *mutual*. he pleads *nil debet per patriam*: Now judgment and costs shall be respired as to the 30 l. till the issue upon the *mutual*. be tryed; and then judgement shall be entred, and costs signed for both together; it being necessary that there should be but one taxing of costs, &c.

But the plaintiff may enter *nolle prosequi* for the 10 pounds

Pounds, and so have execution presently for the 30 Pounds.

If a man bind himself, his executors are bound though they are not named; but it is not so of an heir.

If an Usurer shall take so much use as shall exceed after the rate of 6 pounds for the use of one hundred pounds for one year, and so after that rate for a greater or lesser sum, or for a shorter or longer time: when the Obligee puts the Bond in suit and declares, the defendant may plead the Statute of Usury made Anno 12 Caroli 2.

Then the Plaintiff must reply, that this debt is a just debt, *absque hoc quod corrupte agreeatum fuit inter quer. & def. contra formam Statuti.*

To which the defendant may rejoyn, *ut prius dic. quod corrupte agreeatum fuit inter quer. & def. contra formam Statuti. Et de hoc ponit se super patriam, &c.*

Issue being thus joyned, if the defendant upon tryal prove that there was such a corrupt agreement, the Bond shall be void, and the defendant acquitted of the debt.

So if a Lease be made meerly upon the loan of money, if the consideration come to above 6 pounds per centum, this comes within the Statute, and the Lease is void.

If a man signe and seal to a bond or bill, and do not deliver it as his act and deed, this is not enough; for the main point is the delivery; which the plaintiff must always prove upon the tryal of any Deed whatsoever.

A Sheriff sues his Bail-bond for non appearance: The defendant pleads *Comparuit ad diem.*

The plaintiff replies *nul. tiel. Record comparence:* And the defendant rejoyns *quod habetur tale Recordum:* Now the proof lies on the defendants part to produce the Record in Court.

By the Statute of limitations of actions of the 21 Jac. all actions on the Case and others, unless for words; all actions of Accompt, Trespass, Debt, Detinue, and Replevin of Goods and Chattels, these Actions must be commenced within 6 years after cause of action; and all actions of assault and battery, and imprisonment, are to be brought within 4 years after cause of action; and actions on the Case for scandalous words within 2 years after the words spoken: and if any of these actions be brought after the time limited, the said Statute is a good plea in bar to any of them.

But for specialties, as Bonds, Bills, Indentures, &c. there is no time limited for them, but you may sue them when you will.

An action of debt lies against a Parishioner at the suit of the Parson for not setting out of Tythes, by the Statute of the second year of Ed. 6. cap. 13. wherein the Parson shall recover treble damages, that is, treble the value of the Tythes so carried away.

If a man arrest another, or cause him to be arrested in another mans name without his consent, an action of debt upon the Statute lies, 8 Eliz. chap. 2.

If a man have a judgement against one at the Common Law, and have sued out divers executions thereupon, and been at much charges, and nothing done; so that perhaps he hath been at more charges then the costs upon the execution comes unto; he may arrest the defendant upon a mean process, and declare in an action of debt upon the former judgement; to which the defendant can plead nothing but *nil in Record*: And then if the plaintiff prove by the Record, that he had such a judgement unsatisfied, he shall recover upon this action, and have costs taxed the second time.

A release made by Executors before probate of the Will is good; but the Executors cannot sue an action.

on for the debts of the Testator before probate of the Will: But an administrator cannot release before letters of administration committed unto him.

SECT. XIV.

Actions of Detinue.

WHEN one delivers goods or chattels to another to keep, and he will not re-deliver them again upon demand, a Writ of Detinue lies against him.

Detinue ought always to be of a thing in certain, as for a Horse, a Cow, or Money in a bag sealed, or chest locked, or such a certain thing; because the plaintiff shall recover the thing detained in *Specie*; and therefore it must be so certain that it may be known: and therefore a Writ of Detinue lyes not for money out of a bag, or corn out of a sack; for if a man delivers money unto another, he cannot have an action of Detinue for it, but an action of *assumpsit*.

A man may have an action of Detinue for the evidences of his land, if they be in a box or bag sealed up.

A man may wage his Law to an action of Detinue; yet if a man brings his action of Detinue for his evidences in a bag sealed, and declare for one evidence in special, the defendant in this case shall not wage his Law.

To an action of Detinue the defendant may plead *quod non detinet, &c. de hoc pnet se super parriam, &c.*

In an action of Detinue the plaintiff recovers the thing detained, or the value thereof.

When a man recovers in Detinue, then there goes forth a *disfringas* against the defendant, to deliver the thing recovered, in this form,

Ad

Ad reddend. prefat. quer. vaccam pred. quam idem quer. in Curia nostra coram Justic. nostris apud West. reperavit versum eum, vel 80 s. pro valore ejusdem vacc. idem quer. in eadem curia adjudicat. unde convict. est. Precipimus etiam tibi, &c. ad satisfaciend. prefat. quer. 6 l. 7 s. que eidem quer. in eadem curia nostra adjudicat fuerunt pro dampnis suis que habuit occasione detentionis vacc. pred. unde convict. est: & habeas, &c.

Observe in drawing your Declarations, that in Debt, Covenant, Account, Annuity, Detinue and Replevin; you must say, The defendant *sum. fuit ad respondend. &c.* And in action upon the Case, Trepass, Trover, *Ejectionis Firme*, you must say, *Attach. fuit ad respondend.* and not *sum. fuit, &c.*

SECT. XV.

Of suing forth Execution.

WHEN there is Judgement obtained against any one for debt or damages, by *nihil dicat* or by verdict, the Law gives unto the plaintiff his choice of three several sorts of executions. 1. *A Capias ad satisfaciend.* against the defendants body. 2. *A Fieri facias* against his goods. And 3. *An Elegit* against his lands.

Any one of these three several executions the plaintiff may have at his election; but you can take but but one at a time: so that when you have taken forth a *Fieri facias* against his goods, you cannot have *Cap. ad satisfaciend.* against his body, till the return of the *Fi. fa.* be past; and if you take a *Ca. sa.* against

gainst the body, you cannot have a *Fi. Fa.* against the goods, till the return of the execution against the body be out.

If a man be in prison upon an execution at my suit, I cannot now have any *Fieri facias*, or meddle with his goods.

Upon a judgement against an executor or administrator, the plaintiff cannot have a *Cap. ad satisfaciend.* against the body, but a *Fieri facias de bonis Testatoris*. And if the Sheriff do return a *devastavit*; that is, that the executor or administrator hath wasted, or made away the goods of the Testator; then a *Ca. Sa.* lies against the body of the executor or administrator, or a *Fi. fa.* against their goods.

If a man have a judgement against an executor or administrator, in case the executor or administrator plead *plene Administravit*, execution shall go forth to levie the debt and damages, *de bonis & Catallis* which were of the Intestate at the time of his death, in the hands of *I D.* administrator of the goods and chattels which were of the Intestate, if the said administrator have so much goods and chattels which were of the said Intestate at the time of his death in his hands to be administered; and if he hath not, then the damages aforesaid to be levied of the proper goods and chattels of the said administrator. If there be two executors, and the Sheriff return a *devastavit* against one, and he dies, the other shall not be charged for that *devastavit*; for the one shall not prejudice the other: but a writ by one of them, or a surrender by one of them, is good against the other.

If a man be in prison upon an execution, and the plaintiff release all debts, by this is the defendant discharged of the execution; but if the plaintiff shall release all actions, here he is not discharged.

If you take out a *Fieri facias* against one, and he hath not goods sufficient to satisfie it; the Sheriff may levie what he hath in part, and the plaintiff may have another *Fieri facias* for another part, so soon as he can finde more goods; and so may have one *Fi. fa.* after another, till he be fully satisfied: and when the Sheriff hath levied the goods, they must be appraised by men indifferent; and then the Sheriff may sell them, and give the mony to the plaintiff.

But if the Sheriff, when he hath levied the goods, will not sell them, but keep them in his hands; then the plaintiff may sue forth a *VVrit*, called a *Venditioni exponas*, whereby the Sheriff is compelled to sell the goods; and the money which he hath for them, he is to give to the plaintiff, according to the Tenor of the *VVrit*.

If a Judgement be had against a Parson, you may have a *Fieri facias* against his goods: and if the Sheriff do return that the said defendant is a Clerk, and Beneficed at L. in the Diocess of S. having neither goods, nor chattels, nor *Laical Fee* in his Bailiwick, whereof the said debt or any penny thereof can be levied; upon this return a *Fieri facias de bonis Ecclesiasticis* shall go forth, by virtue whereof his Tythes shall be sequestred: which *VVrit* of *Fieri facias* is directed to the Bishop in whose Diocess he is Parson.

Elegit is the third sort of execution, which doth extend to a moyety of all the defendants lands, and also all his goods and chattels, *Preter Boves & affros de Curia sua*; and the plaintiff shall hold half of these lands, till the debt and damages be fully levied and satisfied; and while the plaintiff so holds these lands, he is Tenant by *Elegit*, during which Tenure he must do no waste.

In the execution of a *VVrit* of *Elegit*, the Sheriff

is

is to summon in a Jury, which shall finde the defendants lands; and half of his lands so found, the Sheriff is to deliver *seisin* of unto the plaintiff, to hold till his debt and damages be satisfied.

If a man shall sell his lands, and there be a Judgement obtained against him before, this Land (who-soever hath it) is liable to an *Elegit* to satisfy that Judgement; and to that purpose, there shall go forth a *Scire facias* against the *Terre tenentes* before the execution.

But if there be Judgement against a man, and he sells his goods before execution; these goods are not liable to a *Fieri facias*.

Observe that if an *Elegit* be once gone out, and lands found and returned, and entered and filed, you shall never take forth any other execution, nor another *Elegit*.

Note likewise, That if two Writs of *Elegit* be delivered unto the Sheriff at one time, against the lands of one defendant; the Sheriff is to extend the Moyerety of all the lands, and shall give that moyety to the more ancient debt: and then he ought to extend a moyety of the defendants remaining moyety, and deliver it to the other plaintiff; for he ought not to deliver half the land to one, and the other half unto the other: for by this means the defendant should have nothing left; but here he will have a quarter part. A man may have several *Elegits* into several Counties where the land lyes, and may extend an *Annuity* and *Rents*.

If a man dye, having divers Judgements against him, his Heir being within age, no Writ shall issue against his lands during his *Minority*.

All Writs of execution are to be sued out within a year and a day after Judgement, or else the plaintiff must sue out a *Scire facias*; and upon a *nihil* returned there:

hereupon, a second *Scire facias*; and *nihil* being returned thereupon likewise, the plaintiff may take out what execution he pleases; but if the Sheriff return *Scire feci*, at the return of it the defendant may appear and plead unto it; but if he appear not at the *Scire feci* returned, execution goes out against him.

In the Court of Common Pleas onely there is a Procees to the Outlawry after Judgement; so that if you cannot take a man upon an execution, you may Outlaw him after Judgement, and by virtue thereof seize his goods and lands.

The way to sue to Outlawry after Judgement, is to get a *Cap. ad satisfaciend.* returned by the Sheriff *non est Invent.* and carry that *VVrit* so returned to the Exigenter for that County, who will upon it make an Exigent and Proclamation; to which the defendant cannot appear, nor no way reverse or supersede, without payment of the debt, or some other way agreeing with the Plaintiff.

SECT. XVI.

Actions upon the Case.

THE Variety of these kinde of actions, are almost as infinite as they are numerous, daily increasing, and continually receiving new forms, according to the growing deceits and fraudulent inventions of wicked men: As in these Cases following.

An Action of the Case lies

Where one becomes surety for another: he his instance and request upon a Bond, and he saveth him

not harmless, but the surety is enforced to pay the money: In this case the surety may bring his action upon the case against the principal, wherein he must set forth how such a time, at such a place, at the instance and request of the defendant, he became bound to such a one in such a sum, conditioned for the payment of such a sum at a day then to come, and that the defendant in consideration thereof did assume and promise to save him harmless; and that notwithstanding the promise aforesaid, he hath been sued by the *Obligee*; and shew how, and where, and what he is dampnified.

An action of the Case lies where a bargain or contract is made between two by word of mouth, either for the delivery of corn, cattle, or any goods, wares or merchandise whatsoever; and the party that so promises to deliver it performs it not.

An action of the Case lies also for money borrowed, as well as a *Mutualis*; and here the defendant cannot wage his Law.

It lies for money promised in consideration of Marriage, wherein the plaintiff must aver that he married the wife at such a time.

An action of the Case lies for the hire of a Horse, which is returned back, and the hire unpaid.

It lyes likewise where a man doth abuse a horse by immoderate riding, or otherwise misuseth him.

Likewise if a man hire a horse, if he have given earnest for the horse, and that it be promised him, it shall be delivered unto him by such a time, and then the owner refuses to deliver him, whereby he is disappointed of him; here lies an action upon the Case against him that let the horse.

Case lyes also for a master against his servant, for leaving of his service before the time contracted for be expired.

It lyes also for a servant against his master, if he shall without just cause turn him out of his service before his time be expired.

It lyes for a mutual contract made between two persons by word of mouth; and to binde the same, a piece of money is given by the one to the other in earnest: now if either will not perform what is agreed upon, the other may bring his action upon the Case against him that makes the breach.

Case lyes also where a man upon sale of Sheep warrants them sound, and they prove rotten, or otherwise unsound.

So an action of the Case lyes where one sells a Horse and warrants him sound, and the Horse proves to be unsound at the time of the selling of him.

An action of the Case lyes, if a man sell unto another any other Cattle, or any goods and Merchandise, warranting the same sound and good at the time of the sale, and it proves otherwise.

If a man sell unto another a Hoghead or several Hogheads of Tobacco, shewing him a sample of it, and promises it shall be all as good as that sample, and delivers Tobacco which proves not so good, here an action of the Case lyes against the seller of it; and so it lyes in any other kinde of commodity whatsoever.

It lyes against a Butcher for selling corrupt, or unsound, or putrified meat.

It lyes against a Smith or Farrier, who Shoes a Horse and pricks him, whereby he grows lame.

It lyes against a Gaoler, for letting a prisoner at large, as well as an action of Escape.

Where a man hath distreyned Cattle, and is driving then unto the Pound, and another comes

comes and rescues them; here an action of the Case lies.

It lyes against any one that shall intice away a mans Covenant-servant from him.

An action of the Case lyes against an Inne-keeper, if a man bring goods into his Inne and they be lost. If a man deliver goods unto a Carryer, and agree with him upon a rate for the carrying of them, and they are lost or miscarried, an action of the Case lyes against the Carryer.

An action of the Case lyes for stopping of a Water-course through another mans ground, whereby the Plainriff warded his Beasts and did other necessities; and if this be stopped by Stones, Turffs, or otherwise the course diverted, an action of the Case lyes.

An action of the Case lyes also for stopping up of a way, whether it be a Cart-way or Foot-way; and another hath right to that way, and can prescribe to it.

Where a man is to pay money, and gives a Bill of Exchange which is not accepted, but comes to be protested against; an action of the Case lyes against him that gives the Bill of Exchange.

Where a man sells Cattle, Goods or Merchandises, and warrants them to be his own, and they prove afterwards to be another mans; an action of the Case lies against him for it.

An action of the Case lies against a Taylor for spoiling of a mans Cloath or Stuff, if he undertakes to make Clothes and spoils them, so that they are not useful for the party they are made for.

Case lies against an Executor upon the promise of the Testator, provided there be a valuable consideration to ground the promise upon.

It lies in the behalf of a commoner against any that hinder him from the use of his common.

An action on the case lies, where a man hath an office granted unto him, and another disturbs him, either in the execution of his place, or else receives the profits due unto his office.

It lies also against a cheating Gamester, for playing with false Dice.

An action of the case lies where a man disturbs the keeping of a court-leet.

It lies against an Under-sheriff, for an ill or false Return of a VVrit.

And it lies against an Under-sheriff who makes Return of writs within any Liberty or Franchise granted to another, who ought to have the execution and the Return of those VVrits.

It lies on the behalf of a Physician or Chirurgion for physick, or performing a cure, if the Patient refuse to pay him.

An action of the case lies, where a man builds a house so neer his neighbours, or raises any shed or other out-house, or lays piles of wood, or stacks of hay or corn so neer his neighbours windows, as that they stop up his light.

An action of the case lies likewise for any other nuisance, whereby a man is any ways damnified; as where a man builds a stable or privy house so neer his neighbours house, that the smell thereof annoys him.

Also if a man set up a kilne, to burn bricks or lime, so neer a mans dwelling house, that the smoke or smell thereof annoys him, or so neer his Orchard or Nursey, as that the smoke thereof spoils his fruit-trees, an action of the case lies for it.

It lies against an Under-sheriff for taking of greater Fees then the Statute appoints.

It lies against one who shall break down a mans wall or sluice, whereby his land comes to be drowned.

An action of the case lies also for selling of adulterated or corrupt wine, without warranting it to be good, because it is prohibited by Law

It lies where a man hath pawned his goods, and renders the money due, and demands his goods, and it will not be accepted.

An action of the case lies for negligently keeping of fire, whereby a mans house who is a neighbour, or his goods come to be burned, either in part or in whole.

An action of the case lies for digging of lime-pits where there were none formerly.

If a man keeps a dog that bites sheep, he whose sheep are bitten or worried may have an action of the case against him that keeps such a dog.

A Solicitor may bring his action of the case for his time, expences and disbursements in following his Clyents business.

It lies, where a man for money lent upon forbearance promises to become security.

It lies upon a promise to pay money for Land contracted for.

It lies against any one that makes an Arrest in a Liberty, not being bailiff of that Liberty.

It lies for the Lord of a Mannor in ancient Demesne, against a Tenant that levies a Fine above in the common pleas.

It lies in the nature of an action of conspiracy, for one indicted of Felony, and afterwards acquitted.

Case lies against a Steward of a court for not taking Security in a Replevin.

An action of the case lies against the husband and wife, for meat, drink, cloaths, lodging, &c. had by the wife before the inter-marriage.

It lies for a Keeper of a Prison, for meat and drink had by a Prisoner.

It lies against an Attorney or Clerk of the Kings Bench for appearing or filing a Bail without a warrant.

An action of the case lies also against an Attorney that shall do any act in any mans name, whereby the party is prejudiced in relation to the Law, without warrant for so doing.

It lies for erroneous prosecuting a Writ of Execution.

An action of the case lies also against Bailiffs; Sergeants, and any Officers who take money by extortion: So that I doubt it lies against all the Gaolers, Under-sheriffs, Bailiffs; Sergeants, and Catchpoles in England.

It lies for a Rescue made upon a *Capias*, or any other Process whatsoever.

It lies against a Sheriff for not returning a *venditione exponas*.

It lies also on the behalf of an Executor against an Under-sheriff, for returning falsely a *devastavit*.

If a man sells cloths or stuffs, and warrants them to be of such a length; if they hold not out accordingly, he which buys them may bring his action upon the case.

If one takes a mans cattle, and another takes them from him, an action of the case lies, by way of Trover and Conversion, for the cattle.

An action of the case lies against a Tenant at Will, who commits WASTE by burning of houses, or pulling them down, or the like; but an action of WASTE lies not against him.

An action of the case lies against a bailiff for killing or spoiling any of his masters cattle.

An action of the case lies, where a man delivers to another his sheep to dung his land, or his oxen to plow his land, and he killeth them.

An action of the case lies against a Sheriff, where the Plaintiff hath a charter of Exception, that he shall not be impanelled upon any Jury, and shews that to the Sheriff, and yet he impanells him.

Likewise if the Sheriff, upon a Replevin or VVrit of second deliverance to the plaintiff of the distress, will not return the VVrit, so that the defendant may constrain the plaintiff to come and declare, so that he may avow, the defendant may have his remedy by action of the case against the Sheriff.

Where a Guardian pleads falsely for an Infant, or vouches one who is not sufficient to render in value to the Infant, the Infant shall have an action of the case against the Guardian.

An action of the case lies against a Chirurgion who undertakes to cure a man of a wound, and neglects it, whereby a man grows worse, and makes it through his negligence to become incurable.

An action of the case lies, where a man promises in consideration of a sum of money in hand paid, to enfeoffe another in such and such Lands by a certain day then to come, and he doth it not.

Actions of the case for speaking of scandalous words are likewise innumerable, according as venomous tongues are tinctured; every day almost producing some new one of other.

But in actions of the case for words, you must carefully observe what the nature of the words are, and what they import; the manner of the speaking of them; and what the Plaintiff may be damnified by the speaking of them; what his Credit was, and how it is hurt or impaired: and take the whole words as near as you can; and before you bring your action, let the witnesses set down the words as they were spoken, and as they will prove them, and the time and place, when and where they were spoken, and before whom they were spoken.

This

This action of the case for words oftentimes doth not carry, being brought for words that have not weight enough to bear action; and many times the subsequent words qualifie the sense of the former: As,

For a man to say of another, He is a Thief, he hath stolen my corn;

This will not bear an action; for the latter words qualifie the former; because it shall be understood of corn growing, which is part of the Freehold, and cannot be stolen; for it is but a Trespass: and take this for a general Rule, That in all actions, for words, where the words will bear a double construction, the Law will always take them in the best sense for him that spoke them.

So likewise it is to say of one, He is a Thief, he hath stolen my apples or my trees; it shall be understood of apples growing, and trees growing, which is not felony to steal, and so not actionable.

To call a Physician a Mountebank will bear an action; and so it will to call a Merchant a Bankrupt.

For words spoken by the wife, an action of the Case lies against the husband and the wife; but if the wife be arrested and not the husband, you cannot declare.

To call a man a Bastard, if he be the eldest son, and in a capacity at the time of the words spoken to inherit an estate after his Father, and be disinherited, an action lies.

To call a Maid Whore, or to say she hath a bastard, whereby she loseth her preferment in marriage, is actionable.

To call a married wife Whore, will not bear an action at the Common Law; but it is punishable in Court Christian: and in the City of London, to call a Citizens wife Whore is actionable in their Courts, by the custom of the City; where many a well-headed

Citizen oftentimes to clear his wives innocency appears a cuckold upon Record.

If a man speak scandalous words of any, for which an action is brought against him; if the defendant be able to make proof of the matter for which he spoke the words; he may plead a special Justification; but if he plead such a plea, and make it not good, it will much aggravate the damages against him.

Trin. 16 Car. in B. C. C. and his wife brought an action for scandalous words against I. H. and M. his wife, for words spoken by the defendants wife against the wife of the plaintiff; The words were these; *Thou art a Bawd; thou art the Bawd of Bawds; thou keepst a Bawdy-house, and art a Bawd to thy own daughter.* The plaintiff declared, that he keeping a publick Veuallling-house lost his custom: at the Tryal a verdict and 5 l. damages passed for the plaintiffs: The defendants moved in arrest of Judgement; and it was held by the whole court, that the words were not actionable; for that the words were spoken of the defendants wife, who kept no house at all, but her husband; and therefore it was agreed, it could be no damage to him; and Judgement was arrested.

Thus you see how dubious actions for words are: indeed they are all vexatious, the effects of passion and hot blood; and are seldom slanderous, because they are for the most part true: The courts do not countenance them; and I think wise men will not trouble themselves with them upon frivolous accounts.

SECT XVII.

Affault and Battery.

Where a man assaults another, and strikes, kicks, beats, or does him any manner of violence either with hand or foot, or with any weapon, or throw any thing at him or upon him, or do him any hurt; here an action of Assault and Battery lies.

The original in Assault you have in the beginning of the *Solicitor in the Common Pleas*; it runs usually, *Quare vi & armis in ipsum quer. apud H. insultum fecit, & ipsum verberavit, vulneravit, & maletraxavit, ita quod de vita ejus desperabatur, & alia enormia ei intulit, ad grave damnum ipsius quer. & contra pacem, &c.*

Sometimes there is Assault and Battery, and false Imprisonment together; and then in the Writ after *vulneravit*, you must adde *imprisonavit*, in case the plaintiff were kept in prison, that is any way restrained of his liberty, kept or detained in any place against his will: this is in the law false imprisonment.

And in this you must name in your declaration for what time the plaintiff was imprisoned, thus: *Et ipsum quer. sic in prisoa diu, videlicet, per spatium trium horarum* (more or less as your case requires) *detinuit.*

The general issue or plea to this action is, *Non cul.* Not guilty; but there are several other pleas in justification of a mans self; as where it is done in defence of a mans person or goods: also a man may justify in the defence of the person of his wife, father, mother, or master: but if it be not in any of these cases, or in the maintenance of Justice, if the defendant

he not constrained unto it by a necessary cause, he is punishable if he beat another.

If a man come into another mans house against his will, and there offer violence either to his wife, children, servants, or to any of his goods, he may lawfully thrust him away to hinder him; and if he bring an action, in suchlike case the defendant may plead specially as the case was, and conclude, that to hinder him, or put him out of doors, *molliter manus imposuit, &c.* he did gently lay his hands upon him.

Where a man for preservation of the peace goeth about to part a fray, by holding either of the parties from striking; if the party that was so holden do bring an action of Battery, the defendant ought to plead specially, that to preserve the person of one from killing or wounding, and for preservation of the peace, he did come in aid unto him, & *molliter imposuit manus* upon the plaintiff.

To this the plaintiff may reply, that the defendant made the assault *injuria sua propria*, of his own proper injury, without any such cause; and then the defendant must maintain his plea with an (*ut prius dicit*) *Et de hoc ponit se super patriam*, and of this he puts himself upon the Country, &c.

There is likewise a plea in Assault and Battery called *son assault demesne*, which is, when a man justifies that the plaintiff struck the first blow, and he struck in his own defence: This is a very usual plea, and proves very often on the defendants side.

S E C T. XVIII.

Actions of Trespafs,

THESE are the most general actions next to Debt and actions upon the Case, that are brought, or indeed that happen; and these vary in the original Writ and Declaration, according as the Trespafs is, and the cause of action thereby occasioned.

An action of Trespafs may be brought for breaking the Close, without adding any manner of other Trespafs: This is a common *Clausum fregit*.

Sometimes it is brought, *Quare domum & clausum fregit*, for breaking both house and close; and sometimes, especially in London, *Quare domum fregit*, for breaking of the house only.

You may lay an action of Trespafs for several trespasses at several days; or one trespass with a *Continuando*, that is, continuing of it for some certain days and weeks from the time laid in the Declaration.

It lies for chasing of Cattle, whereby they either dyed, or were bitten or worried with Dogs.

It lies for taking away of pales, posts, rails, breaking of hedges or fences.

It lies for digging in a leaden Myne, and taking away the Ore; or for breaking the ground, and digging there.

An action of Trespafs lies for breaking another mans Dove-house, and taking away Pigeons.

An action of Trespafs lies for driving horses, or drawing a cart over another mans ground, where no way can be prescribed for.

It lies for Fishing in another mans Pond, and for breaking the Pond and letting out the VVater.

For Chasing or Hunting in a free Warren, an action of Trespafs lies.

An action of Trespafs also lies for breaking of a Close, mowing of Grass, cutting Corn or Trees, or eating of Corn or Grass with Cattle.

It lies for Trespafs done in a Garden, plucking up of Sage, Rue, Rosemary, Lavender, or other Herbs or Flowers.

It lies in the behalf of a Parson, against any that hinder or oppose him in the carrying away of his Tythes.

It lies for taking away Hay in Cocks, and Corn in Sheaves; and (as some hold) for impounding a Horse or other Cattle, and not giving them meat in the Pound. *It is probable in some Cases an Action may lie for this, but I am sure in all it doth not: for if a Landlord impound Cattle which he hath distreyned for Rent, he is not bound to feed them; but if they be starved and dye in the Pound, it's the Tenants loss.*

It lies for taking away of Horses or any other Cattle, wherein you say, *Talis pretii*, &c. or if Goods and Chattels, then *ad valenciam*, &c.

An action of Trespafs lies for breaking of Doors, Windows, or any part of a House.

Where one hath right to a Toll in a Marker, and imployes his servant to gather it, and he is disturbed in it; here an action of Trespafs lies against the disturber.

It is the same Case where a man hath right to keep a Fair, and is hindred or disturbed in it.

So where one hath Execution and return of Writs in a Liberty or Hundred, and is hindred or disturbed in it; he hath amends by action of Trespafs against the disturbers.

An action of Trespass also lies where a man hath right to keep a *Court-baron*, and is any way disturbed in it.

It lies also for digging in a mans Coal-mynes, and carrying away Coals, and for digging in a mans *Quarries*.

The general plea to actions of Trespass is, *Not guilty*; yet there is variety of special pleading by way of *Justification* or otherwise, but most usually that is after the Common Bar hath been pleaded in an action of Trespass, and that there be a new assignment of the place; then they plead as to the Trespass in the place of a new assignment, either in justification for a Foot-way or a Cart-way, or some other special Plea, &c. or not guilty to the new assignment. This new assignment is used very oft to clear a Title, which upon it comes in question; and here if the Title appear to be the Plaintiffs, he shall recover damages.

If a Plaintiff recover in an action of Trespass, it brings him onely damages, and not recovery of any Possession, as in the Case of an *Ejectione Firme*.

SECT. XIX.

Ejectione Firme.

THIS is the most usual action now adays for the tryal of a Title, and comes in place of many real actions, as *Formedon*, &c. which were very tedious, difficult and chargeable.

This lies where a man makes a Lease to another of
Land

Lands, Houses, &c. and seals and delivers it upon the premises, and leaves the Lessee in Possession, and afterwards the Lessee is ousted by the entry of a Stranger; here the Lessee shall bring his *Ejectione Firme*.

And in bringing this action he must have recourse unto his Lease, both for the thing demised, and for the Terms, and the Date of the Demise, and the place precisely where the land lies: but those onely are to be mentioned in the Declaration, but not in the Writ.

You must be sure your Original bear Test after the Entry of the Ejector.

The form of the Original in *Ejectione Firme* you have, Chap. 11. Sect. 3. pag. 92.

In this action is recovered the Possession of the House or Land demised, and that by an Execution of *Habere facias possessionem*, which is awarded upon the Judgement-roll, and also damages; and there issues besides the Writ of *Habere facias possessionem*, a *Capias ad satisfaciend.* against the body for the damages, or a *Fieri facias* against the goods.

It is the usual course now in Ejectments to feign a Lease of Ejectment, and an Ejector, and draw a Declaration against the feigned Ejector, and send a Copy thereof to the Tenant in Possession, giving him notice to appear and defend his Title, or else the Ejector will confess or suffer Judgement by default; and thereby the Tenant will be evicted out of possession.

To this the Tenant may appear by his Attorney, and consent to a Rule with the Plaintiffs Attorney to make himself Defendant in the Room of the casual Ejector, and to confess Lease, Entry and Ouster, and at the tryal to stand upon the Title onely, or in default hereof Judgement to be entred against the casual Ejector.

If the Tenant in possession do not appear in due time after the Declaration left with him, and enter into a Rule as is aforesaid; then upon Affidavit made of the service thereof and notice given him to appear; upon Motion the Court will order judgement to be entered against the casual Ejector.

SECT. XIII.

Actions of Covenant.

THIS action lies where an Agreement or Contract is by Deed, Articles or other writing sealed between two persons, where every of them is bound to the other, to perform certain covenants for his part; and if the one of them holdeth not his Covenant, but breaketh it, then he which findeth himself agrieved may have thereupon a Writ of Covenant: and Covenants are either in Law or fact.

A Covenant in Law is that which the Law doth intend to be done, although it be not in words expressed; as if a man demise House or Lands, or any thing to another for a certain term; here the Law intendeth a Covenant of the part of the *Lessor*, That the Lessee shall hold all his Term against all lawful Incumbrances.

Covenant in fact is that which is expressly agreed upon between the parties.

Also there is a Covenant meerly personal, and real Covenant.

Real Covenant is where a man tyeth himself to pass a real thing, as Lands or Tenements, as where a man covenants to levie a Fine of Lands, &c.

Cove-

Covenant meerly personal, is where a man covenants with another by Deed to build a House, or do such or such an act, or to serve him, &c.

Where a personal Covenant is made to any, and the *Covenantee* dyes, the Covenant being unperformed; here his *Executor* shall maintain an action of Covenant.

The *Heir* shall likewise maintain an action of Covenant, where one had covenanted by writing with his Father to enfeoffe him in certain Land, and doth it not.

In this action the *Plaintiff* recovers damages assessed by the Jury, for what he is damaged by the breach of Covenant, besides cost.

An *Administrator* may have an action of Covenant as well as an *Executor*; and the *VVrit* of Covenant ought to be brought in the County where the Deed is made; but if it be brought in another County then where the Deed was made, the Defendant shall not have a plea in Bar to the *VVrit*, unless that the Deed bear date in another County.

A *VVrit* of Covenant lies also against Pledges, who become Sureties that another man shall perform a Covenant.

The Assignee of the Lessee shall maintain an action of Covenant against the Lessor, although he be not specified in the said Deed of Covenant to be an assignee.

There may be one or more breaches of Covenant assigned, as the Case may require.

But in an action of Debt upon a Bond for the performance of Covenants, you can assign but one breach.

S E C T. XXI.

Actions of Trover and Conversion.

THIS action lies where another man comes by goods by finding or otherwise; if he refuse to deliver them unto the owner upon demand, he may bring his action of *Trover*, and shall thereupon recover as much damages as the Goods be worth; for you recover not the thing detained, as in an action of *Detinue*, but damages to the value.

The Plaintiff in *Trover*; before he bring his action, must first make a demand of the Goods detained.

And if the Defendant to an action of *Trover* plead *non est culpabilis*, the Plaintiff must prove his property in the Goods.

There are now adays more actions of *Trover* brought then actions of *Detinue*, because the Defendant in this action cannot wage his Law, as in an action of *Detinue* he may.

If a man bring an action of *Trover* for a Horse, or Cow, or the like; the Defendant may justify it as a Stray, and may chuse to deliver it, unless he be paid by the owner for his meat and keeping; which he must plead specially.

In this action you may arrest the party upon a common *Clausum fregit*, and declare in *Trover*; or you may sue the Defendant to an Outlawry: and if the several Processes be laid specially, the defendant is to appear and answer the same Term the *Exigent* is returnable, otherwise he may imparle.

Upon any personal action, as *Debt*, *Detinue*, *Case*, *Trespas*,

Trespass, Trover, or the like, if you cannot easily get the defendant arrested, you may sue him to the Outlawry.

If I finde my Goods in another mans custody, I may bring my action of Trover against him for them. Now if he bought them in an open Market, or in any Fair, and they be tolled in the book, as the manner is, this alters the property, and the Goods I can never recover; and this the defendant must plead specially: But if he bought them privately any where but in an open Market or Fair, by this the property is not altered, and I may recover them by action of Trover.

So if my Plate be stolen, and I finde it in another mans custody; if he bought it privately, and not in a Gold-smiths Shop, or if he bought it at any other but a Gold-smiths Shop, the property is not altered; and I may recover the value of my Goods in damages by action of Trover.

SECT. XXII.

Of Dower.

Dower in the Common Law is taken for that Portion which the Widow hath for term of her life, of the Lands or Tenements of her Husband: it is called *Dower* or *Dowry*, as a gift, because the Law it self doth (without any gift of the Husband himself) give it her; It is commonly taken for the third part, which she hath of her Husbands Lands after his decease.

To the consummation or perfection of this Dower, three things are necessary; Marriage, Seisin, and the death of the Husband.

This

This provision the Law hath made for a Widow, where the Husband hath not assigned in his life-time part of his Lands to his Wife.

Dower by the Custome of some places, as *Gavel-kinde* in *Kent*, is to have the Husbands lands, but that is *Durante viduitate*, during her Widow-hood: for if she marry again she loses all.

The Writ of Dower lies where a man is sole-seized of Lands or Tenements in Fee-simple or Fee-tail, during the Coverture between him and his Wife, where by possibility the Issue between them may inherit; if such a man die, his Wife shall recover a third part of all the Lands whereof the Husband was sole-seized any time during the Coverture, by a Writ of Dower, though he died not seized, and although that he aliened the same Lands in his life-time.

Where the Husband died seized, and the Wife brings a Writ of Dower and recovers, she shall recover damages for the profits of the Land incurred from the time of the death of her Husband; but if there were any Estate or Alienation made of the Lands, &c. during the Coverture, so that the Husband died not seized; in that Case she shall recover no damages for mean profits, although she recover the Lands.

It is not material whether seisin continue or not during the Coverture; for if the Husband be once seized it is sufficient, although he alien Lands or extinguish Rents, yet the Woman shall have her Dower.

But it is absolutely necessary that the Marriage do continue: for if that be dissolved, the Dower is determined.

In Case of *Elopement*, which is where a Woman leaves her Husband, and goes away with an *Adulterer*, and dwelleth with an *Adulterer* without voluntary reconciliation.

concilement to her Husband; she shall lose her Dower, according to the old verse:

*A woman that her Husband leaves, and in Adultery leads her life;
If that he dye unreconcil'd, the Law endoweth no such wife.*

A woman shall not be endowed of a Common without number in Grass, nor of an Annuity, &c. nor of Rents, &c. if the Free-hold of the Rents were suspended before the Coverture; but she shall be endowed of Tithes, of the third parts of the profits of Courts, Fines, Heriots, &c.

She shall be endowed according to the value of the Land at the time of the assignment, and not according to the value, as it was in the time of her Husband; whether the value of the Land by building or otherwise be improved, or whether it be impaired by the Heir.

If the Wife be past the age of nine years at the time of the death of her Husband, (although she were but four years old when she were married) yet she shall be endowed.

If a Woman marry before she be of years to consent, which is twelve in a Woman, and fourteen in a Man; yet that imperfect Marriage (from which either of the parties at the age of consent may disagree) after the death of the Husband shall give Dower to the Wife.

If the Heir put out the Widow within forty days after the death of her Husband, she shall have a Writ *de Quarentina habenda*, which is a Writ that the Law gives where a man dies seized of a Manor, Place, and other Lands, whereof the Wife ought to be endowed; there the Woman may abide in the Manor, Place

Place or House, and there live of the Stock and profits thereof for the space of forty days, within which time her Dower is to be assigned. *Magna Charta, Cap. 6.*

There needeth neither Livery of seisin nor writing to any assignment of Dower, because it is due of common Right, and the assignment must be of some part of the Land, or of a Rent, &c. issuing out of the same.

The assignment must be certain and absolute, and by such as have Free-hold, or against whom a Writ of Dower lies.

Assignment of Dower must be either by the Sheriff by the Kings Writ, or else by the Heir or other Tenant of the Land by consent and agreement amongst themselves.

A Joynture was anciently no bar of Dower at the Common Law; but now it is by the Stat. 27 H. 8. If the Joynture be made to the Wife according to that Statute.

To the making of a perfect Joynture, these six things are required.

First, it is to take effect for her life in possession or profit, presently after the decease of her Husband.

Secondly, that it be for term of her own life, or greater Estate.

Thirdly, it must be made to her self, and no other for her.

Fourthly, it must be made in lieu and satisfaction of her whole Dower, and not of part thereof.

Fifthly, it must either be expressed or averred to be in satisfaction of her Dower, &c.

Sixthly, it may be made either before or after Marriage.

If the Joynture be made before Marriage, the Wife cannot wave it and claim her Dower at the Common Law; but if it be made after the Marriage, she may wave the same.

A Joynture made to the Wife above or under the age of nine years is good.

The Wife shall not be endowed of Lands which the Husband holdeth Joyntly with another at the time of his death, &c. because the Joynt-tenant who surviveth claimeth the Land by Feofment, and by the survivorship, which is above the Title of Dower; but Tenants in Common have several Free-holds and Inheritances, and their Moyeties shall descend to their several Heirs; and therefore their Wives shall have their Dower thereof.

The leading Process in the prosecution of an action of Dower, is first a summons between the Teste and Return whereof there is five Returns.

And if the Tenant do not appear nor essoyne, entering a *ne Recipiatur*, a *Grand cape* lies to seize the Lands, &c.

But if the Tenant wage his Law of *Non summons*, he shall save his default, and then he may plead with the Demandant.

In the *Grand cape* the Tenant shall be summoned to answer the default; and further, to answer to the Demandant: but in the *Petit cape* he shall be summoned to answer unto the default only, and not to the Demandant; and therefore it is called the *Petit cape*, because it includes less than the other.

And if the Tenant by the return of the Summons *Essoyne*, the Demandant adjourns fifteen days longer; and in this Case the Tenants Attorney may enter with the *Philizer*, that the Tenant appears and prays view, &c.

Then there issues forth a Writ of view, whereby the Sheriff

Sheriff is to shew the Tenant the Lands in question ; which Writ supposeth that the Tenant knows not well what Lands it is that the Demandant asketh : by the return of which Writ of view , the Tenants Attorney takes a Declaration.

Where a default is made after appearance , there a *Petit cape* is to issue forth at the suit of the Demandant ; which Writ , as also the *Grand cape* , is made by the Philizer of that County where the Land lies.

To an action of Dower there be several Pleas , as the Case may require.

One usual Plea is *ne unques seizi que dower* ; that is , that the Husband was never seized of any Estate whereof the Wife can be endowed.

There is also another Plea in Bar of Dower , called *Non tenure* ; the Defendant pleads that he cannot render the Demandant her Dower , because he is not thereof Tenant as of the Free-hold , nor was at the day of the issuing forth of the Original Writ of her the said Demandant , nor at any time after , *Et hoc parat. est verificare , unde petit Judicium brevis predict. &c.*

To this the Demandant may reply , That her Writ ought not to be quashed for any thing before alledged , for that the day of the issuing forth of the Original Writ of her the Demandant , *viz. (tali die & anno)* the Defendant was Tenant of the Land , &c. as of his Free-hold , as by the same Writ is supposed , *Et hoc petit quod inquiretur per patriam , & pred. def. similiter. Ideo , &c.*

Nonage may also be pleaded in Bar of Dower , That the Demandant at the time of the death of her Husband was not of full age that she should deserve Dowry ; that is to say , of nine years and an half , *Et hoc parat. est verificare , unde petit Judicium predict.*

A. dotem suam de Tenementis pred. cum pertin. habere debet, &c.

To this the Demandant may reply, that she was of full age, &c. *Et petit quod inquiratur per patriam, &c.*

There is another Plea in Bar of Dower, called an *Elopement*.

Which is, that the Demandant ought not to have Dower, because in the life-time of her Husband she voluntarily left him; and did lead her life in Adultery with another at, &c. during the life of her late Husband, *Absque hoc*, that her Husband in his life-time was reconciled to her, &c.

To this Plea of *Elopement* the Demandant may reply a reconciliation; saying, That she ought not to be barred for any thing before alledged, because she saith, that her Husband in his life-time of his own accord, without any Ecclesiastical compelling, did reconcile and suffered her to live with him, &c.

To this the Defendant may take issue, saying, That the Husband in his life-time did not reconcile in manner and form, &c. *Et de hoc ponit se super patriam, &c.*

A man may call to warranty in Dower, and then is the party who is called to warranty summoned in the County where he lives, and that by the aid of the Court: And this is called a Counter-plea of the Voucher in Dower.

An Annuity may also be pleaded in Bar of Dower; but in this action of Dower, if the Tenant have no special matter to plead in Bar thereof, his best way to save charges is to confess the action by *non sum informatus*, or let it go by default.

Observe that in this action of Dower as in all other real actions, when you plead for the Defendant, you say only *Venit & dicit*, and not *Venit & defendit vim & injuriam, &c.* as in other personal actions.

S E C T. XXIII.

Of the Writ of Formedon.

THis is a real action, and is called *Formedon*, *quasi forma donationis*; and hereof there be three kinds:

The first is called *Formedon in le descender*, a *Formedon* in the descent, which lyeth where a Tenant in Tail enfeoffeth a stranger, or is disseized and dyeth; the Heir shall recover the Land by a Writ of *Formedon*.

The second kind is a *Formedon in remainder*; and this Writ lieth where one giveth Lands in the Tail, and for default of Issue the remainder to another in Tail, and that for default of such Issue the Land shall revert to the Donor; if the first Tenant in Tail die without Issue, he in the remainder shall recover by this Writ.

The third is *Formedon in Reverter*, and that lyeth where the Tenant in Tail dieth without Issue, and he in the remainder dieth also without Issue; then the Donor or his Heirs shall recover the Land again by this Writ of *Formedon in Reverter*.

Where a Tenant in Tail aliens or is disseized, or if a recovery be had against him by default, and that he die, his Heir shall have a *Formedon*, for the Heir shall not have other recovery for the Possession of his Ancestors but by *Formedon*: But if he be outed of his own Possession, as if he be seized and put out, he shall have his Writ of Affize.

Formedon lies by the Heir of a Gift made before the Statute of *Westm. 2.* where the Donor after the Statute Aliens and dies.

Where there is a Tenant in Dower or by the court-
tesie.

The reversion to another in Tail, if one intrude after the death of the Tenant in Dower, or by the Heir of courtesie, he in the reversion shall not have intrusion, but a *Formedon*.

A woman in Tail takes a Husband which aliens, and after they are divorced, and after the Husband dies; the Wife in this Case shall have a *Formedon*, and not a *Cui in vita*.

If a Tenant in Tail lets for life, and the Tenant for life aliens in Fee; the Tenant in Tail shall have a *Formedon* at his pleasure.

Where Land is given to one for life, the remainder to the Father in Tail (if it were executed in the Father) and he Aliens; the Issue may have a *Formedon* in descender generally, or may have a special Writ, making mention how it was given for life, the remainder to his Father in Tail; and one or other is good.

In conveyance of degrees you need not name him Heir, but Son of him which was not seized; but it is a surer way to name him Son and Heir to every one, if he were seized or not; but he cannot omit any in his Writs which were seized.

In *Formedon* if the Demandant omit one who held the Estate, that is to say who was seized, the Writ shall abate.

The Demandant in this Writ ought to make his descent by all which hold the Estate, otherwise the Writ shall abate.

Though the Demandant be made Heir to him who died in the life-time of his Father, who was not seized, yet the Writ shall not abate, but is good.

Esplees shall be alledged in *Formedon* in Reversion

in the *Donor*, and in the *Donee*; and in *Formedon* in the descender and remainder in the *Donee* only.

Those *Esplees* are as it were the seisin or possession of a thing, profit or commodity that is to be taken, as of a Common, the *Esplees* is the taking of the Grass or Common by the mouths of the Beasts that Common there; of an Advowson, by taking the Grass, Tythes by the Parson presented thereto: Of Wood, the selling of Wood; of an Orchard, the selling of Apples and other Fruit growing there; of a Mill, the taking of Toll is *Esplees*, and of such like.

In a Writ of Right of Land or Advowson, &c. the Demandant ought to alledge in his Declaration, that he or his Ancestors took the *Esplees* of the thing in Demand, otherwise the pleading is not good.

Formedon in remainder he alledgeth *Esplees* in the Tenant for life, and not in the Donor.

The Process in *Formedon* is a Summons between the Teste and return thereof there must be nine returns, and after the Summons a *Grand Cape*, Writ of *Vuue*, and *Petit Cape*, as in Dower.

This Writ of *Formedon* is now almost *obsolete*, being rarely brought except in some special Cases where it cannot be avoided, it being tedious, dubious, and very chargeable; the trying of Titles by *Ejectione Firme* supplies the place thereof at a far quicker and easier rate.

SECT. XXIV.

Quare impedit.

THIS may be said to be a spiritual action, it being a Process that lies where a man hath an Advowson, and the Parson dieth, and another presenteth his Clerk, or disturbeth him who hath the Right to present; then he may have this Writ of *Quare impedit*.

Also an Assize of *Darreyz presentment* lies where a man or his Ancestors have presented before; and in such Cases where a man may have an Assize of *Darreyz presentment*, he may have also a *Quare impedit*, but not otherwise.

Also if the Plea be depending between two parties, and be not discussed within six months, then the Bishop may present by *Lapse*; and he that hath right to present shall recover his damages: *Stat. Westm. Chap. 5.*

Also if one have right to present after the death of a Parson, and bringeth no *Quare impedit*, or *Darreyz presentment*, but suffereth a stranger to usurp upon him; yet he shall have a Writ of Right Advowson; but this Writ lyeth not unless he claim to have the Advowson to him and his Heirs in Fee-simple.

A *Quare impedit* may be brought by him who hath the grant of the next *Avoydance*.

It lies of the moyety or third part of the Advowson, and of the Advowson or moyety of the third part.

A *Quare impedit* may be brought for a Chantry which is a donative, and he hath it by Letters-Patents, and

and that it be void, and he present to it his Clerk who is disturbed by another, or another presented to the said *Chantry*, he which hath the Right may bring his *Quare impedit*.

But if the Church be void, and the Plaintiff fear that the Defendant will get in, or that the Bishop will collate his Clerk; then he may have a Writ directed to the Bishop, which is called *Ne Admittas*; and this Writ must be brought while the action is depending in the Common Pleas, whether by *Quare impedit* or *Darrecyn presentment*, and ought to be sued out within the six months after the avoydance: for after six months he cannot have this Writ, because then the living may be presented unto by *Lapse*; so that it is then too late to sue out this Writ, for that the Title of presenting is devolved to the Bishop; but the King may sue this Writ after the six months, having a Writ of *Quare impedit* or *Darrecyn presentment* depending, *quia nullum tempus occurrit Regi*.

The Defendant as well as the Plaintiff may sue out this Writ, if the Defendant fear the Bishop will admit the Plaintiffs Clerk; the suit depending. Now observe by the way, this Writ of *Ne Admittas* lies not at all, unless the Plea be depending in the Common Pleas by *Quare impedit* or *Darrecyn presentment*.

And if the truth be that there be no such Plea depending in the Common Pleas, then the party grieved may require the Chief Justice to certifie the King in his Chancery, that no such Plea is there depending; and thereupon he shall have a Writ to avoid the non *Admittas*.

In this Action of *Quare impedit*, after issue joyned, you may prepare your Record for tryal as in other Cases; and when you have a verdict for the Plaintiff, and the *Postea* returned, and Judgement entred, you may

may then have a Writ directed to the Bishop to admit your Clerk, or to the Arch-bishop if the recovery be had against the Bishop himself. And if a man have his Recovery against any other then the Bishop, then is the Writ directed to the Bishop to admit the Clerk; and upon this Writ the Plaintiff shall have an *Alias* and *Pluries*, if the Bishop do not execute the Writ, and an Attachment against the Bishop if need require.

SECT. XXV.

Audita Querela.

A *Audita Querela* is a Writ which lyeth where one is bound in any Statute-Merchant, or of the Staple, or in a Recognizance; or where Judgement is obtained against him for debt, and his body be in Execution thereupon, then if he have a release or matter sufficient to be discharged of Execution, and hath no day in Court there to plead it; then he may be relieved by this Writ against him who hath so recovered, or against his Executors.

If a Judgement, or Judgement and Execution be had against one, and the Plaintiff release him of the debt in Fact, or that he be released of it all, or part of it in Law, and yet he sueth out Execution; here the Defendant hath his remedy by *Audita Querela*.

If a Judgement be obtained against two several persons, and one of them be taken in Execution, and after is released of the debt, or otherwise discharged of the Execution by the party himself, the other may take

take advantage of this release or discharge; and be relieved by *Audita Querela*.

If Judgement be against two Trespassers, and one of them be taken, and the damage satisfied by him.

The like Case if a Judgement be against two or more upon one Bond, and Execution is done upon, and satisfaction made by one of them.

If Executors sue for and recover a debt, and after the Testament is revoked; in this Case the party that hath paid the money may get the same certified by the Bishop, and then he shall have his remedy against the Executors.

If the *Conusor* in a Statute after Execution tender the money due upon the Statute to the *Conussee*, and he refuse it; or if part of it were paid at the day, and he tender the rest in Court, and yet the *Conussee* go on to extend it; in these cases the party grieved may have this remedy.

If a Statute be delivered to a stranger to keep till certain conditions be performed, and he doth deliver it to the *Conussee*, or he doth get it by fraud from him before the conditions be performed; in this Case the *Conusor* shall be relieved by this Writ.

If an Infant enter into a Statute, he may avoid it whilst he is in minority by *Audita querela*: the course whereof is, In case he be in Prison, this Writ may be sued out by some of his Friends to the Justices, who thereupon command the Sheriff to bring the Infant into the Court to be seen; and if the Judges judge him to be within age after Process sent to the *Conussee*, they will discharge him. But if one that hath been an Infant be sued upon it after he is of full age, he can have no relief by this Writ.

If divers be bound by one Specialty (*Conjunctim*;

& *disfism*) and the Obligee get Judgement and Execution against one of them, and after sue the Specialty against the other; he may be relieved by *Audita querela*.

If in the interim betwixt Verdict and Judgment the parties have put themselves into Arbitrement for the suit, or the Defendant get a release from the Plaintiff, and yet the Plaintiff doth proceed; the Defendant may have an *Audita querela*: but in all Cases Judgment must be given before the bringing of the Writ.

Where a man sues for a thing for which he had formerly Judgement and Execution, there an *Audita querela* lyeth.

Where a man and his Heirs are bound by any Bond or Bill, &c. and the Obligee sues it and recovers against the Heirs, and after the Executors for the same cause: or on the other side, if he sue the Executors first, and after recovery had against them he sue the Heirs; in this case the Heir or Executor so sued may have recovery by *Audita querela*, because they cannot plead it in Bar.

Where a Lessee Covenants for him and his Assigns to repair houses, or to do any other thing chargeable upon him after assignment of his Estate, and he assigns his Estate; and after the Lessor, who may sue either of them, sue and recover against one of them; in this Case if afterwards he sue the other for the same cause, he may be relieved by this Writ.

When this Writ is brought before Execution executed, by the party grieved himself, or by his Heirs or Executors, upon suggestion of good cause for this Writ, he must give Bail to prosecute, and stand to the Judgement of the Court, upon which he may have a *Superfedeas* to stay Execution; but when the party is in Prison, and there is no Bail put in; *Conusce*,
Obligee,

Obligor, or other Defendant in the *Audita querela* answer.

Where a man puts in Bail upon this Writ; he shall not be discharged of this Bail, but must continue till the suit by the *Audita querela* be determined; for although the party do not prosecute after the appearance of the Defendant, yet he must continue in Prison, or stand upon his Bail.

If a man be non-suited in one *Audita querela*, yet he may have another; but he shall have no *Supersedeas* in the second as he had in the first.

The Process in *Audita querela* is *Venire facias*, *Distingas*, *Alias & pluries Distingas*; and if the Sheriff return that he hath nothing, &c. or that he cannot be found, &c. then shall issue a *Capias* against the Defendants body.

SECT. XXVI.

Of Wager of Law.

FOR one to wage his Law, is to take an oath that he oweth not the debt demanded of him upon a simple contract, nor any penny thereof, in manner and form as the Plaintiff hath declared.

Where a Debt is due by Deed or Specialty, no wager of Law lieth; but when it groweth by word, so as the Defendant may pay or satisfy the Plaintiff in secret, whereof the Defendant having no witnesses may wage his Law; and thereby if the Defendant do wage his Law, and the Plaintiff stand to it, the Plaintiff is for ever barred of his Debt.

The Defendant may wage his Law to a Book-debt,

or upon a *Mutual* upon an *infirmal Computasset* in Detinue.

Also in an Action of Debt upon Arbitrement, or in an Action of Detinue by the Bailment of anothers hand, the Defendant may wage his Law.

When a man pleads *Nil debet per legem*, and the Defendant Essoyns not at the day, nor performs his Law, the Plaintiff shall recover costs; and the Plaintiff is to enter a *Precipe* hereof in the Common Remembrance, upon which the Prothonotary Signs costs for *Defecit de lege*.

In an Action of Debt for an Attachment in a Court-Baron, the Defendant may wage his Law, because it is no Court of Record; but in an Action of Debt for a Fine or Amerciament in a Court-Leer he cannot wage his Law.

An Alien shall wage his Law in that Language which he can speak.

A *Feme covert*, together with her Husband, may wage her Law for the debt of the Wife.

An Infant under the age of twenty one years shall not wage his Law; and if an Infant be Plaintiff, the Defendant cannot wage his Law.

In no Case where a Contempr, Trespas, Deceit, or injury is supposed in the Defendant, shall he wage his Law, because the Law will not trust him with an Oath.

When the Defendant pleads *Nil debet per legem*, he is to imparle till the Term following; or he may do it presently, at his own election.

But if he get day over till the next Term, he is to have a special care to come at his day to do his Law; and if he cannot then do it, he must be sure on the Essoyn-day of that return to *Essoyn*; whereupon the Plaintiffs Attorney will adjourn it fifteen days longer,

ger, which if he neglect, the Defendant may non-suit the Plaintiff; but if the Plaintiff do adjourn it fifteen dayes longer, Then the Defendant is to do his Law at the day given him peremptorily, or Judgment shall be awarded against him, *quia non perfecit legem.*

Or if the Defendant at his day fail to do his Law or to Essoyn, the Plaintiff may enter a *ne Recipiatur*, and give him day in Court to do it within three or four dayes after, and upon the Defendants default therein Judgment shall pass against him.

The manner of a wager of Law done in Court is thus: The Defendant standing towards the lower end of the Bar, the Judges ask him, Why he pays not the Plaintiff the money? he answers, He owes him nothing, or that he hath paid him, or to that effect. Then the Defendant saith after the Secondary, these words, *viz.* This hear you Justices, that I owe not this debt, nor any penny thereof in manner and form as the Plaintiff hath declared against me: so God me help.

And if the Defendant thus swear, and the Plaintiff stand to it, then he is perpetually barred to bring any other action for this Debt; but if the Defendant be ready to do his Law, and the Plaintiff will not stand to it, but be *non-suit* and pay costs to the Defendant, then he is at liberty to bring any other Action, as an Action on the Case, to which the Defendant cannot wage his Law.

SECT. XXVII.

Essoyn.

AN *Essoyn*, is a kind of *Imparlance*, or craving of longer time.

An *Essoyn* lies in all real actions, as in *Waste*, *Dower*, *Partition*, *Quare impedit*, *Formedon*, *Warrant*, *Chart*, &c.

And as I said before, the Defendant that is to wage his Law may *Essoyn*.

The course of suing an Heir is by summons, *Pone*; and *Distingas ad infinitum*. At the return of the summons, the Heir is to *Essoyn*: if he *Essoyn* not at the day, entering a *ne Recipiatur*, a *Pone* goes out fifteen dayes after, and then if he *Essoyn* not, a *Distingas* is awarded, and five pounds issues, which the Sheriff is to levy upon his Land; and if he appear not, *Distingas* after *Distingas ad infinitum* till he do appear. Now if the Heir *Essoyn* at the return of the summons, the Plaintiff must adjourn it; and if he do not adjourn it at the day, the Defendant enters a *ne Recipiatur*, and gives him a Rule within three or four dayes, by which time if he do not adjourn it, the Defendant non-suits the Plaintiff with the Clerk of the *Essoyns*.

The Defendant may *Essoyn* by the return of the *Pone*, if he do not upon the summons.

The same proceedings are against a Nobleman or a Peer of the Realm, *Sum. pone & distingas* until he do appear, and issues upon his Land all the while.

An Heir or a Nobleman cannot be arrest *id per corpus*, nor properly sued to the Exigent; for an Acti-

on lies against the Sheriff, if he return *Nihil habet*, they having lands in his Bailiwick.

SECT. XXVIII.

How to prosecute a Writ of Error, and reverse Judgement thereupon.

AFTER a Judgement had and recovered, by (*non sum informat.*) *Nihil dicit*, confession, or otherwise (if it be not after a Verdict,) these following causes of Error, or any of them being duly found, may serve to reverse and make void the same.

First, If there be any material difference or variance between the additions in the Original, or the process of *Capias*, *Alias*, *Pluries*, or *Exigent*, and the Judgement which is warranted by them: this is good cause of Error.

Secondly, If the Debt demanded in the Process, or either of them, and the Debt in the Judgement recovered do not agree, but are different: this is a good cause of Error.

Thirdly, If the Writs be not ordinarily and duly returned, and filed with the *Custos Brevium*, there is cause of Error.

Fourthly, If there be not Warrants of Attorney duly filed, and put in the Office accordingly, as the cause requireth, as one for the Plaintiff upon suing forth of the *Exigent*, or upon the Entry of the Judgement; there is good cause of Error.

And for these and all other Errors, you are to search and get Copies of the Writs from the *Custos Brevium*, and observe diligently both them and their returns: and compare them with the Judgement, as it is entered upon Record in the Prothonotaries Office, where

you are to take your Number-roll out of the Docquets to that purpose, that so you may go readily to it in the Treasury at *Westminster*.

Fifthly, If the Defendant be arrested by a Writ of *Testatum* in a forreign County, and no Writ of *Capias ad satisfaciend.* returned against the Defendant with a *Non est Inventus* in the same County where the Action was laid, and filed with the *Custos Brevium*: that is good cause of Error in the Execution, but not in the Judgement.

When you have thus searched and found cause of Error, and the Defendant be not arrested and taken in Execution, but would avoid the same; then must you proceed as follows.

First, Having the Number-roll, that will direct you to the Treasury at *Westminster*, and there take a true Copy of the Judgement, with the additions of the Defendant, and of the Debt and costs of suit literally such as it is entred upon the Roll.

Then carry the same, or a Copy of the *Praeipe* Debt and Costs to the Curfitor for that County where the Action is laid, and thereupon he will make you a Writ of Error.

Then go with the Writ of Error to the Clerk of the Errors, and carry with you good Sureties for Bail, such as the validity of the cause doth require.

Then the Clerk of the Errors will go with your Sureties to the Lord chief Justice of the Common Pleas for the time being; and there the Defendant with his Sureties enter into a Recognizance, in double the Debt, that the Defendant shall prosecute his Writ of Error with effect; and if the Defendant shall be condemned therein, and cannot prove sufficient Error, that then the Defendant shall pay the condemnation therein, with further costs of suit, such as shall be allowed, or they the Sureties to do it for him.

To this Bail the chief Justice subscribeth his hand, and giveth warrant to the Clerk of the Errors to make supersedeas, one, two, or as many as the Defendant desireth, for his safegard from being taken in Execution: which Writs the Defendant is to allow; with the Sheriffs of such Counties where he stands in fear of Execution before he be arrested, or the said Execution be executed either upon body or goods: for if the Execution be once executed, the Supersedeas comes too late; therefore it behoves the Defendant, to make haste to get that allowed in as many Counties as he suspects any danger, or hath occasion to go into.

This may be done in the Vacation, aswell as in the Term-time, if the Defendant be not arrested, nor have his goods taken in Execution.

For as I said before, if the Defendant be taken in Execution, before the Supersedeas be procured, then the Supersedeas comes too late; for the Defendant cannot be released thereupon, but must continue in durance until such time as the Judgement be reversed by the said Writ of Error in the Kings Bench: or if the Defendant pay the money due upon the Execution, and afterwards reverse the Judgement, he shall have a Writ of Restitution for the Plaintiff to pay back the money again.

Now for the reversal of a Judgement, the Defendant when he hath sued out his Writ of Error, and gotten the same allowed, must not rest here, but he must also cause the whole Record of all the proceedings, from the Original and the beginning of the same cause (if Error be not found in the entry of the Judgement it self) to be certified by the said Clerk of the Errors out of the Common Pleas into the Kings Bench; and there he must assign cause of Error.

The Record being thus certified, and Error assigned, upon the return of the said Writ of Error, the Defendant is to take Copies thereof, and thereupon to sue out a Writ of *Scire facias* to the Plaintiff in the action, *ad audiendum Errores*, to hear Errors.

To this the Plaintiff if he see cause may appear and plead: and the most usual and common Plea is, *In nullo est erratum*; that the Record is in nothing *Erroneous*. The Plaintiff having so pleaded, and being willing to have the said Error argued, and the Judgment confirmed, as cause shall require.

The Defendant according to his Recognizance, must so follow the same with effect, or else he will be condemned therein.

Therefore is the Defendant then to labour for a day given for the arguing of the same Error, if the cause shall so require.

But if the Defendant do delay the Plaintiff, then the Plaintiff is to sue forth two Writs of *Scire facias* against the Defendant, to shew cause why he should not have Execution. And if at the return of the second *Scire facias*, Errors be not assigned, then shall Judgement be confirmed for the Plaintiff.

Take notice, that in this case, upon a Writ of Error brought upon a Judgement had in the Court of Common Pleas, and returned into the Kings-Bench; the further proceedings thereupon must be onely in the Kings-Bench, to which Court, and to no other, it doth properly belong, after it is thither returned.

But a Writ of Error upon a Judgement had in the Kings-Bench, must be returnable in the Exchequer-Chamber; and the cause of Error is heard and determined before the Lord Treasurer, Lord chief Justice of the Common Pleas, Lord chief Baron of the Exchequer, Chancellor of the Exchequer, and the rest of the Judges and Barons who are of the Coise of those
two Courts.

If the Error be found, and allowed by them to be sufficient and good, then the said Judgement is by their full consent declared to be reversed and made void.

But observe, That notwithstanding the reversal of it, the Plaintiffs cause of action is not thereby taken away; for the Plaintiff may bring a new action against the Defendant for the same cause, if he will.

If the Error be not found good and allowed, then is the former Judgement affirmed, and further costs for delay of Execution, allowed to the Plaintiff, who may presently take Execution out of the Court of the Kings-Bench, either against the Defendant or his Sureties, as he thinks best, and prosecute against them either by *Scire facias*, &c. as in the case of Special Bail, or by an Action of Debt.

The Fees, and accidental charges in the prosecution of a Writ of Error, are very uncertain: but the general heads of such things as you must pay for, are

For search of the Record to find the Error.

For Copies of the Record.

For the Writ of Error.

For the Lord chief Justices Fee.

Putting in Bail.

Certifying the Record.

Assigning causes of Error.

For an *Habeas Corpus*.

For the allowing.

For the return.

For the *Supersedeas*.

For the Copy of the Writ of Error.

For Drawing Diminution if need require.

For the Copy thereof.

For entering the Errors and Plea.

For a *Certiorari* if need require.

For a Certificate from the *Custos Brevium*.
 For entering the same and Diminution.
 For the Warrant of Attorney.
 For the Copies of the Books for the Judges.
 For the Councillors Fees.
 For affirming the Judgement.
 For the Copy thereof.
 For the *Scire facias* and entering.
 For Filing and returning.
 For Attorneys Fees.

Cum multis aliis, &c.

Note, that if upon any Judgement recovered and had against the Defendant, he be taken in Execution, or have his Goods taken, or his Lands extended for the same; and upon full payment or satisfaction of the Debt and Costs, the Plaintiff either in Person, or by his Attorney, do acknowledge satisfaction upon Record, in the said Court wherein the said Judgement was entred: And if the Defendant at no time before or after, make a Release of Errors to the Plaintiff, and that there be good cause of Error found in the said Judgement; the Defendant may bring a Writ of Error upon the said Judgement: and upon the arguing thereof, if the Error be allowed by the Judges, and the Judgement thereupon reversed, the Defendant may sue forth a Writ of Restitution against the Plaintiff, and recovered back again the full Debt and Costs of suit, specified in the said Judgement: but if the Defendant hath given a release of Errors, he is void of remedy.

And observe further, that if there be a Judgement had and recovered against the Defendant by way of *Nisi prius*, and verdict of twelve Men, Then unless he can find some good cause after the Verdict so given and had, he cannot be admitted to bring a Writ of

of Error, for by many Statutes, as the Statute of Jeofailles, many great faults, misprisions, or causes of Error, had or committed in the prosecution of the said cause before the said Verdict, are taken away; and by an Act of the last Session of this present Parliament 16 Car. 2. all stay of Execution by *Superfedas* upon Writs of Error after a Verdict are taken away.

Thus have we by this time informed our Solicitor of the practice of the Court of Common Pleas, which will as a Map, shew him also the general practice of all the Courts of Common Law in England, who imitate the same in substance, though they somewhat vary their *Forms*. We shall in the next place teach our Solicitor what Fees he ought to pay to every Officer in the Common Pleas, and then lead him to the Kings Bench.



CHAP. XII.

*The several Fees due and payable to
the Judges and Officers of the Court
of Common Pleas at Westminster.*

SECT. I.

The Lord Chief Justice his Fees.

*Writ of
Error.*

FOR allowance of a Writ of Error
upon an Outlawry before Judge-
ment, 20 s.

For a Bail taken upon an Outlawry
upon mean process in debt, if the debt be
20 l. or above, 2 s. 4 d.

For the allowance of a Writ of Error
upon a Judgement, 20 s.

For Bail taken in case of debt after
Judgement, 12 s.

For the allowance of a Writ of Error
upon a judgement upon a *Scire fac.* and
Outlawry after judgement, 35 s.

*Marking
the Roll.*

For marking the Roll that a Writ of
Error is allowed on, 2 s.

Supersed.

For a *Supersed.* 3 s.

Transcript.

For the transcript of a Record being
a press. 6 s. 8 d.

For

For every press more, 6 s. 8 d.
 For the return of every *Certiorari*, *Certiorari*.
 24 s. 9 d.
 For the seal of every Record of *Nisi Seal Nisi*
prius. 2 s. 1 d. *prius*.
 For the seal of every Writ sealed in Sealing of
 Court. 1 d. *Writs*, &
 For the seal of every Exemplification, *exemplifi-*
 2 d. *cat*.

SECT. II.

*The Fees following are due to such of
 the Judges who do perform the busi-
 ness.*

FOR acknowledging of a Fine or War-
 rant of Attorney for a common Re-
 very out of Court, 6 s. 8 d. *Fines.*

For signing every Writ of privilege
 to remove any cause, *Habeas corpus*, *proce-*
dendo, or *Superfed.* upon a *Procedendo*,
 4 s. *Sign. writs.*

For every Bail taken out of Court up-
 on any such Writ of privilege, wherein
 one cause only is returned, 9 s. 8 d. *Bails.*

For every cause more, 2 s.

For the confession of a Judgement out
 of Court, 9 s. 8 d. *Confessions.*

For every Philizers Bail, and other Bails.
 Bail, taken out of Court, 9 s. 8 d.

For acknowledging satisfaction out of
 Court, 01. *Satisfacti-*

	Court,	9 s. 8 d.
Deeds at-	For acknowledging out of Court a	
knowl.	Deed to beinrolled.	9 s. 8 d.
Guardians.	For admission of a Guardian out of	
	Court,	9 s. 8 d.
Suggestion.	For the proof of a suggestion out of	
	Court, for every witness,	9 s. 8 d.
Warrant	For a warrant for passing of a Fine,	
for fine.	where there are more than three Cogni-	
	zors, or three Cognizees, parties to the	
	Fine,	4 s.
Affidavit.	For every Affidavit taken out of Court	
	upon a forein Plea or Rescous,	2 s.
	For any other Affidavit taken out of	
	Court,	8 d.
Informati-	For exhibiting of an Information out	
ons.	of Court,	8 d.
	For signing a Bill of costs towards an	
	Attachment for not appearing upon a	
	Subpœna,	8 d.
	For granting license to compound up-	
	on a penal law.	2 s.
	For assessing of the Kings part of a for-	
	feiture upon a penal Statute after com-	
	position with the Informer,	2 s.
Commit-	For the commitment out of Court of	
ments.	a Prisoner to the Fleet, charged with one	
	cause only,	9 s. 8 d.
Bails on	For every Bail taken out of Court up-	
Outlaw-	on an Outlawry in debt upon mean	
ries.	Process reversed, if the same be twenty	
	pounds,	2 s. 4 d.

S E C T.

SECT. III.

Divident-Fees.

*These Fees following are due to the Fees in
Lord Chief Justice, and the other Court to
Judges of the Court of Common the Box.
Pleas, by way of Divident.*

FOR confessing of a Judgement in Judge-
Court, 6 d. ments.

For acknowledging satisfaction in Satisfac-
Court, if the Debt or Damage do not tion.
amount unto 100 l. 6 d.

If the Debt or Damage do amount to
100 l. 12 d. and for every 100 l. after the
same rate, 12 d.

For admitting an Infant in Court to Guardi-
his Guardian, 12 d. an.

For reversing an Outlawry in Court ult.
for Error in the Exigent, or Return, 12 d.

For the like for the insufficiency of the
Proclamation or Return, or for want of
a Proclamation, 2 s.

For every common Recovery ac-Recoveries.
knowledged in Court, 6 d.

For a Fine acknowledged in Court, Fines.
6 d. Bails,

For a Pail taken in Court, or a Bail Recogni-
or recognisances.

	or Recognizance acknowledged in Court,	12 d.
<i>Deeds,</i>	For a Deed acknowledged in Court to be inrolled,	12 d.
<i>Discont.</i>	For a Discontinuance,	12 d.
<i>Prohibit.</i>	For a prohibition granted,	9 s. 8 d.
<i>Wagers of Law.</i>	For every wager of Law, or non-suit upon a wager of Law,	6 d.
<i>Attorney sworn.</i>	For every admission of an Attorney to be an Attorney of this Court,	20 s.

SECT IV.

The Puisse Judges Fees.

<i>Fines.</i>	F OR every fine drawn at Bar,	12 d.
<i>Recoveries.</i>	For a Recovery drawn at the Bar with a single voucher,	18 d.
	For every voucher more,	6 d.
<i>Reversals.</i>	For Reversal of an Outlawry in Court,	4 s.
<i>Privy verd.</i>	For taking a privy verdict,	6 s. 8 d.
<i>Costs taxed.</i>	For taxing of costs upon every verdict,	12 d.
<i>Feod. annale</i>	From the Clerk of the Warrants every Term, to every of the puisse Judges,	33 s.
<i>Clericus warrant.</i>	For every Attorney, whose name is recorded in the Roll of Attorneys, every Term,	4 d.

For

For inrolling and examining the parts *Inrolling*
of a Fine, and Writs upon common Re-fines and
coveries by the Statute 23 *Elix.* 6 s. *recove-*

For the Exemplification and examina-*ries.*
tion of the parts of a Fine, and Writs up-*Exempli-*
on common recoveries by that Statute, *cation*
5 s. *thercof.*

For drawing and entring a Rule for *Rules* for
an amendment upon that Statute, 12 d. *amend-*

For a search made upon the inrolment *ments.*
upon that Statute, 4 d. *Searches.*

For a copy of a Fine, or Writs in-*Copies.*
rolled upon common Recoveries, inrol-
led by that Statute, for every sheet, 4 d.

For the return of every Writ of Co-*Return of*
venant brought to levy a fine upon, *Writs of*
10 d. *Covenant*

For the return of every Writ of entry *and En-*
to suffer a common recovery, every *tries.*
Writ of Summons and Seizin there-
upon, 10 d.

An antient Fee of 6 s. 8 d. for signing *Signing*
of a *Dedimus potestatem*, due to the *Dedimus*
Judges of any Court who do assign the *potestatem.*
same: which is now and of late hath been
divided amongst all the Judges that ride
the *Circuits.*

SECT. V

These Fees following are due to the Clerks of the Lord Chief Justice, and other the Justices of the said Court.

Fines.

TO the Judges Clerk of the Fines, for taking of a fine, or warrant of an Attorney, 3 s. 4 d.

*Warrant of Attorn.
Bails.*

For certifying of a fine or return of a *Dedimus potestatem*, 16 d.

To the Judges Clerk of the Bails, for taking every Bail, 12 d.

Caveat.

For entring every Caveat to give notice that good Bail may be taken, 12 d.

Satisfaction.

For satisfaction acknowledged out of Court, 12 d.

*Deeds acknowledged.
Suggestion.*

For a Deed acknowledged out of Court to be inrolled, 12 d.

For the proof of a suggestion out of Court, for every witness, 12 d.

Affidavits

For an Affidavit taken out of Court, 1 s.

Information.

For entring into his book an Information exhibited out of Court, 4 d.

For entring into his Book of costs a Warrant signed to award an attachment for not appearing upon a *Subpœna*, 4 d.

*Gardian.
Licenses.*

For admission to a Gardian 12 d.

For entring into his Book a license to compound upon a penal Law, 4 d.

For

For entring into his book the Kings
part of the forfeiture upon a penal Law
assessed by the Judges, after composition
with the Informer, 6 d

For entring into a Book a commitment *Commit-*
out of Court of a prisoner to the Fleet, *ments.*
charged with one cause only, 12 d

To the puisne Judges Clerk of the In- *Inroll-*
rollments, for copying, inrolling, and *ments.*
examining the parts of a fine, and writs *Fines and*
upon a Recovery, by the Statute 23 *E-recoveries*
liz. 8 s. 4 d *&c.*

For a search made for an inrollment
upon that Statute, 8 d

For writing a fine, or writs inrolled
upon a common Recovery inrolled by
that Statute, 8 d

SECT. VI.

The *Custos Brevium*, who is the prime &
first Officer of the Court, his fees.

*These Fees following are the fees which
are taken by the Custos Brevium of his
Majesties Court of Common Pleas, &
his Clerks, in right of his said Office, &
as they were taken 11 Eliz. by the then
Master of the said Office, & his Clerks.*

IN *primis*, for filing any Writ, or other *Pr. diem.*
Record, coming after the day of the re-
tourn thereof, except Writs of privilege
T de

de veniendis, & reduendis, and also Writs of priviledge, called *prop.* or *post diem.* 4 d

Pr. Ter.

Item, for filing any Writ, or other Record (except before excepted), coming after the Term wherein it was retournable, called a *post Term.* 30 d

Item, for filing any Writ, or other Record coming after two Terms, called *post Termin.* for every Term after 20 d apiece, except Exigents, and Outlawries, which pay but only 20 d

Item, To the Clerk of the same Office (*ab antiquo*) who enters the same, 2 d

Item, Upon the making of the Stat. 4 H. 7. cap. 24. the *Custos Brevium* was allowed by the Court for carrying and recarrying of every fine levied according to that Statute, to *Westmin.* to the Cirrographer to proclaim four Terms, 8 d

Item, for keeping three parts of the Record of every Fine, consisting of five parts, 4 d. apiece, 12 d

In tot. for every Fine 3 s. 8 d. whereof the Master hath 2 s. 6 d. and 14 d. is allowed to the Clerks, 3 s. 8 d

Amendments.

Item, for the amendment of every writ or other Record *Per Warrant. Cur.* 20 d

Non est factum.

Item, for every *Non est factum* pleaded in Court, 2 s

Sheriffs Bundle.

Item, for every Sheriffs bundle of Writs retournable of the precedent Term, and coming before *Essoine*-day of the second retourn of the new Term, 8 d. SECT.

SECT. VII.

The usual Fees allowed by the Custos
Brevium to the Clerks of his Office.

IN *primis*, for every Temple-search, 4 *d* Searches.

Item, out of every Westm-search, 2 s. 1 *d*

Item, to the Clerks out of the allow- *Certiora*.
ance of every *Certiorari* 2 s. 8 *d*. and for
certifying the same, *secundum longitudi-*
nem, and according to reason, 2 s. 1 *d*

Item, To the Clerk for writing and *Exemplifi*
examining of every Exemplification, *se-*
cundum longitudinem.

Item, To the Clerk for any Writ, or *c- Porta. br.*
ther Record carried into the Court, 4 *d* *in cur.*

Item, for entring a common Recovery *Bre. de*
super de disse sinam in le post, 8 *d* *Ingrum. et*

Item, for every Fine passing in the *seia Fines*
Writ-Office, 14 *d*

Item, for entering into a book every Re- *Ne recipi-*
ciatur coming under a Judges hand, *atur.*
or by order of Court, 12 *d*

Item, for every Note of *Jurors* names *Nota Jur*
for the Clerk of the Juries to make fur-
ther Proces by, 4 *d*

Item, for every Note of an Exigent *Copia ex-*
for the Clerk of the Outlawries to make *so.*
further Proces by, 8 *d*

Item, for the search of any Book of En- *Searches.*
tries of any Writs, for every Term, 8 *d*

Copies. Item, for the Copy of any Writ, or other Record, for every sheet, 8 d

SECT. VIII.

The usual Fees allowed by the Custos Brevium to the Bag-bearer of the Office, being alwayes the common Vouchee of the Court.

Searches **I**N *primis*, for every search under five years, 1 d
Item, for every Temple-search, 5 d
 For every *Westmin.* search, 12 d
Porta. br. in cur. For any Writ, or other Record carried into the Court, 5 d
Recupat. For every common Recovery suffered in Court (being the common Vouchee) 4 d. a piece, 4 d
Attourn. Jur. For every Attorney sworn in Court, 6 d

SECT. IX.

The Fees of the Clerk of the Inrolments of Warrants and Estreats in the Common Pleas, as are now, and have been taken these two and thirty years, and as I conceive were taken ever since 31 Eliz. saving the Fees hereafter mentioned, allowed per ordin. Cur.

Inrolments **E**VERY Inrolment containing a side of a Roll, 5 s
 For

For a full Roll,	10 s
<i>And so according to the rate.</i>	
Every Warrant of Attorney in <i>deb. War. Atto.</i>	
<i>transg. & detainee,</i>	4 d
The Sheriffs warrants,	12 d
Every other warrant, called double warrants,	8 d
For a <i>Post-Termin.</i>	4 d
The Lord Mayor of London his warrant,	5 s. 8 d
The Secondaries of the Compters in Easter Term yearly,	13 s. 4 d
For entering of an Attorneys name in the Roll of Attornies, upon his first admittance,	3 s. 4 d <i>Attorn. Fur.</i>
For a warrant upon a writ of <i>Cove. War. sur. nant, per ordin. Cur.</i>	4 d <i>fine.</i>
Paid to the Clerk by every Attorney 4 d. a Term, called the Roll-groat, which is paid to the Judges Box, and I conceive it to be due ever since 11 <i>Eliz.</i>	4 d <i>Rot. Att.</i>
Paid also to the Clerk by the Protho- notaries 12 d. upon every Recovery, which is also paid to the Judges,	12 d <i>Recuper.</i>
To the Clerk when an Attorney is first sworn,	12 d <i>Attorn. Fur.</i>

SECT. X.

The Cirographers Fees.

IN *primis*, The ancient fee limited by *Fines. Stat. 11 Eliz.* for every fine, 4 s
T 3 *Item,*

Item, From 4 H. 7. for the service in
proclaiming Fines, 8 d

Item, By Stat. 23. Eliz. for writing the
Roll, 4 d

So the Cirographers Fee for every Fine
is, 5 s

SECT. XI.

*Other Fees also due, and anciently paid
to the Cirographer, videlicet,*

Exempli- For exemplifying a Fine, the Term in
fication. *in which it was ingrossed,* 2 s. 8 d
Copie. For every sheet of every fine, of twelve

lines, copied out of the Record, 12 d

For the sight of every Record being
ancient, from H. 8. upwards, 3 s. 4 d

Searches For the search of every Fine from H. 8
to this present, for every year, 8 d

For the search of every Fine during the
Reign of H. 8. for every year, 12 d

Certiora. For certifying of every Record by a
Writ of Error, 12 s

Quid jur. For a *Quid juris clamat, quem reddi-*
clam. &c. tum reddit, & per qua servit. 6 s

Claimes. For entering a claim upon a Record, 5 s

Pt. fines. For allowing of Proclamations upon
Fines brought into the Office after the
Term ended, 6 d

Pt. Ter- For the *Post Termin.* of a Fine, 12 d
minum.

SECT.

SECT. XII.

The Cirographers Clerks Fees for ingrossing of Fines by the Attorneys which sue them out.

THE Cirographers Clerks have received Fines in an allowance of the Attornies for gross.

their pains for them, which heretofore have been more advantageous unto them then now it is, being reduced to 2 s. 6 d. in certain, had and made at the request of 100 or 80 of the most ancient Attorneys with *John Brewer Esquire*, Clerk of the Office, in 2 or 3 of King *James*: To which agreement had and made in writing, the said Attorneys set their hands, and the same was delivered to Sir *Edward Cook* Knight, then chief Justice of the Common Pleas, and hath so continued ever since, 2 s. 6 d.

For this allowance the Clerks do write more then all the Officers through which Fines do pass, viz. They write every Fine, long or short, four times over in a great set-hand.

SECT. XIII.

Fees belonging to the Clerk of the Treasury.

FOR the Copy of every issue, and un-Copie.
parlance, for every sheet, 4 d

T 4

For

	For every Judgement, Deed enrolled, and real Action, for every sheet,	8 d
Searches.	For the search of every Term above ten years,	4 s
Exemplification	For every Exemplification not exceeding three sheets,	7 s
	For every sheet more,	12 d
Records of Nisi prius	For every Record of <i>Nisi prius</i> , not exceeding three sheets,	2 s
	For every sheet more,	4 d

SECT. XIV.

Fees for the Keeper of the Treasury from 11 Eliz.

Searches.	I N <i>primis</i> , for search of a Term above ten year,	8 d
	For seven years under ten years,	4 d
	For three years,	0
	For search of a Plea-Roll,	4 d
Portam Rot.	For a roll carried into the Court,	6 s
Ligam Rot.	For making up a term and record,	3 s
Attor. jur	For every Attorn. sworn in court,	12 s
Jur. at bar.	For a Jury at bar,	5 s
Nisi pr. mid. Ga.	For a <i>Nisi prius</i> , in Mid.	2 s
ger de lay	For a Wager in Law,	5 d
copia per fines.	For a Copy of a <i>Precipe</i> , after the Term,	18 d
	For a fine acknowledged in the Treasury,	4 d
	For a warrant of Attorney left unentered, and comes to be entered in the roll after the Term,	4 d
	For	

For an entry left out of the Kings silver, *Intra. pt.*
and comes to be entred in the Office, 4 d *Termi.*

From the Clerk of the Treasury for my *Feod. an.*
attendance every Term, 5 s

For my key after the Term, 18 d *Claves*
Thefr.

SECT. XV.

*The fees of the Clerk of the Kings silver,
as they were taken in the eleventh year
of Queen Eliz. in the sixteenth year of
King James, and in the late Kings time,
and since.*

IN *primis*, for the fees of every ordina- *Fines in*
ry fine taken by the Lord chief Justice *the We-*
of the Common Pleas, or any Judge of *stern cir-*
Assize in the Western Circuit, together *cuit.*
with the copy or *Post-fine*, 18 d. For e- *Fines by*
very fine taken in the same Circuit by *special*
special Commission, and for the Copy of *Deed.*
the *post-fine*, 22 d

For every ordinary fine elsewhere in *Ordinary*
England and *Munmouthshire* taken as *finer.*
aforesaid without Commission, and for
the copy, 10 d

For every fine taken by special Com- *Western*
mission out of the Western circuit, and
for the Copy, 14 d

For every several Caption in any fine *Several*
where it is taken at several times by spe- *capti.*
cial Commission, over and above the for-
mer rates, 4 d

For

<i>Certiorari.</i>	For every fine certified by <i>Certiorari</i> after the death of any Judge, or other Commissioners, over and above the former Rates,	6d
<i>Pr. Termi</i>	For the <i>post Termin.</i> of every fine brought in the next Vacation after the return of the writ of Covenant,	5d
<i>Searches</i>	For every search of any fine, every Term,	4d
<i>Copia.</i>	For every Copy of the Entry of the Kingsilver,	8d
<i>Ne recipiatur.</i>	For every fee of a <i>Ne recipiatur</i> of any fine, either by order or warrant of the Court, or any Judge,	3 s. 4d
	For the continuing of any such order or warrant from term to term till it be dissolved,	3 s. 4d

SECT. XVI.

The Philizers Fees.

<i>Cap. Al. & Plur.</i>	<i>In primis</i> , for every <i>Cap. Al. & Plur.</i> <i>Cap.</i> in Debt, Detinue, and Trespafs, not having more then four names in a Writ, and Entry thereof,	6d
<i>Deliv. of Rec. of the Cap. Testat. Pone sum. Billa in compo.</i>	<i>Item</i> , for delivery of every first <i>Cap.</i> upon Record and entry thereof,	4d
	For every <i>Testat.</i> upon any of the said writs, <i>Pon. in Replev. & Summons</i> ,	12d
	<i>Item</i> , for every <i>Cap. Al. & Plur.</i> in Accompt, Covenant, Annuity, <i>Ejectione firme</i> , and upon penal <i>Stat.</i>	12d
<i>Adio. super casum</i>	<i>Item</i> , for every writ in an action upon the	

the case, or more, according to the length,

12 d

For every return *Habend.* and second Return deliverance, and entry thereof,

2 s. 6 d

Habend.

For every *Non omit.* & *Cap.* in *Withern.* thernam,

2 s

Non omit.

For every Writ of partition, *Warrant.* charte, *Quare imp.* and Waste,

12 d

Partition

For every writ for enquiry of damages in real actions, *Scire fac.* & *Super sed.* *Cart.*

2 s

For every grand *Cap.* *Al. Sum.* *pet.* *Inq. deda.* *cap.* and entry thereof,

2 s. 6 d

Scire fac.

For the Copy of the entry thereof,

8 d

superse.

For the demand in every writ of view, and entry thereof,

2 s. 6 d

cap. Copi.

For every writ of Seizin, and entry thereof,

4 s. 6 d

View.

For the view prayer, For a Copy of the entry thereof,

2 s

8 d

For every writ of *Habeas Corpus,* *duc.* *Hab. Cor.* *coram,* *distring. nuper. vic.* & *distring.* & *distri.* *ballivum,*

2 s

con. resort

For every writ of Rescous, and entry thereof,

2 s

rescous.

For the entry of every adjournment, discontinuance, and resort,

4 d

Adjuorn.

For every special bail, and the entry thereof,

2 s. 10 d

Special

For every appearance in real and mixt actions,

4 d

For

<i>Appearance.</i>	For every appearance upon writs to arrest, and the Entry thereof,	12 d
<i>Searches, rules, copies, number-rolls.</i>	For searches, copies, number-rolls, and giving of Rules, each of them,	4 d

SECT. XVII.

Exigents Fees.

Feod. Exigents. **E**VER since the Statute of *Henry the Eighth*, which gave the Proclamation upon the exigent, the whole estate of the Exigents Office did consist in the making of three writs, *Videlicet*, an Exigent, a *Superfed.* and a Proclamation; All which writs are warranted by one and the same Record.

For all the time of our remembrance and experience in the said Court, which hath been (by the most ancient of us) for about thirty years or thereabout, the fees of the said writs were as followeth, *viz.*

The Superfed.	2 s
The Exigent,	11 d
The Proclamation,	6 d

Which fee of 6 d. was given by the Stat. of 6 Hen. 8. being now about one hundred and ten years since.

About

About eight or nine years since, the *Superfed.* (*quia improvid.*) being the least *VVrit* in labour, and more in profit then both the other, was granted by Letters Patents under the great Seal of *England*, by the late King of famous memory, to Mr. *John Murray* then of his Majesties bed-chamber: and partly to avoid contestation with his said Majesties grant, and upon hopes and promises of some recompence other way; the Exigents did give way to the said Patent, and have ever since lost the benefit of the said *Superfed.* whereupon the Judges did give increase only of 1 *d.* to be taken upon the Exigent, for relief of the Exigents and their Clerks, and so the Exigent was made 12 *d.* which increase of 1 *d.* is all the recompence which hitherto they have received for that great loss of the *Superfed.*

VVe have likewise heard, that above forty years since, and before our times, by occasion of an act of Parliament made 31 *Eliz.* whereby the Proclamation of the Exigent was much enlarged, without any addition or increase of Fee, there was one penny added to the Exigent, to be given to the poor Clerks for writing the said writs, over and above the ancient allowance; which penny hath ever since been paid to the said poor Clerks accordingly, without any benefit to the Masters themselves.

Other increase, addition, or alteration of fees in our Offices we know not of, nor ever heard of, although the length of the said Exigent or Proclamation, with their entries, considering the loss of the *Superfed.* (all which we humbly submit to his Majesties Commissioners) might perhaps have justly deserved some further improvement. And it is certainly true, that no other increase of fees hath been in our Offices since 11 *Eliz.* nor for ought we ever heard, or can by any means conjecture, for these hundred years at the least.

S E C T.

SECT. XVIII.
HILLAR. TERTIO
Caroli Regis.

The Clerk of the Jurors.

A Note of all such Fees as are now usually taken by the Clerks of the Jurors of his Majesties Court of Common Pleas at Westmin. being the same, and no other then such as have been taken time out of mind.

<i>Habeas Corpus.</i>	IN <i>primis</i> , for a writ of <i>Habeas corpus</i> , jurator. in debt and trespass,	10 d
	For the like Writ in all other Actions,	16 d
<i>Distring.</i>	For a <i>Distringas cum decem</i> Tales,	2 s. 4 d
<i>Search</i>		
<i>Copy.</i>	For a Terms search, the copy of a Jury,	
<i>Court</i>	a number-roll, & a discontinuance and	
<i>adjourn.</i>	adjournment, for every of them,	4 d

SECT. XIX.

The Clerks of the Essoynes.

<i>Essoyn,</i>	IN <i>primis</i> , for every Essoyn and excep-	
<i>except.</i>	tions,	4 d
<i>Copia.</i>	For the Copy,	4 d
<i>Adjourn.</i>	For every adjournment,	4 d
<i>Copies.</i>	For the Copy,	2 d
<i>Idem dies</i>	For every <i>Idem dies</i> ,	4 d
<i>Non Pros</i>	For every non-suit for want of adjourn-	
	ment in Actions personal,	2 s. 4 d
	For	

For the Copy,	12 d	
For every Non-suit in Actions real,	4 s. 4 d	
For the Copy,	12 d	
For the emplification of every Essoyn		<i>Exempli.</i>
and Non-suit thereupon when it shall		
happen, being very seldom,	7 s. 6 d	
For the Copy thereof,	3 s. 4 d	
For the Clerk,	12 d	
For several fees from several Officers of		<i>Feod. an.</i>
the Court towards the numbring and		
marking of the Rolls,	4 l. 9 s	

SECT. XX.

Outlawry Office.

In the Kings Attorney-general his office
of the Outlawries, executed by his depu-
ty Master Johnson, the Fees are, as
followeth, viz.

For a special Cap. Utlagat. against bo-		<i>Cap. Ut.</i>
dy, lands, and goods,	2 s. 4 d	<i>special.</i>
For a Proprium,	14 d	
For every Writ of Hab. Corp. & duces		<i>Hab. corp.</i>
tecum, when they are sued forth,	2 s. 4 d	<i>duces tec.</i>
If a propr.	12 d	
For a general Cap. Utlagat.	10 d	<i>Cap. utl.</i>
For ingrossing and certifying a special		
Writ, with the Inquisition returned by		<i>Certifica.</i>
the Sheriff, of lands or goods found there.		<i>utl. in le &</i>
upon, and for the Exigent, with the Re-		
turn thereof at large certified into the		
Exchequer,		

Exchequer, when it is required, the Office-fee is eight shillings, unless it be commanded by the L. Treasurer, Chancellor, or Barons of the Exchequer, or by the Kings Attorney-general, or Solicitor, for his Majesties service only, then no fee is due, 8 s. *ant. nil.*

Certif. revers. in secum. For ingrossing and certifying a reversal into the Exchequer to discharge seizures upon Outlawries, when any is, 5 s.

Exon. lib. de utl. And to the Clerk, 4 d.

For entering the reversal in th'outlawry office to discharge all Process thereupon, or upon any writ of Error, 2 s. 8 d.

Certif. utl. vel reversal. For certifying of an Outlawry, or Reversal when it is pleaded, 2 s.

And to the Clerk, 4 d.

Search. Filaco exsa. For search of an Outlawry one Term (as in all other Offices) 4 d. if above a year, then 3 d. a Term, which is the utmost, 3 d.

For entering and filing an Exigent, with one Process thereupon, 4 d.

These several Fees aforesaid were paid and received in Easter-Term 34 Eliz. and ever since to mine own knowledge; for so long I have been and continued Clerk and Deputy to all Attornies-general that have been since that time.

These (as I understand) are the true fees.

SECT.

SECT. XXI.

The Fees of the Seal for Writs.

ALL Writs of the Kings Bench, and Seals of
Common Pleas, 7 d Writs.

The exemplification of the Kings Exem-
Bench, 2 s. 2 d plifica.

The exemplification of the Common
Pleas, 2 s. 6 d

Outlawries, 1 d

Propt. 1 d

SECT. XXII.

*Fees due to the Marshal & Proclama-
tor of the Court of common Pleas, given
by order made by all the Judges of the
Court, Term Trin. 31 H. 1. post con-
questum, and received accordingly by
the said Marshal & Proclamator, for
any thing appeareth to the contrary,
until 11 Eliz. and ever since.*

IN primis, For every Judgement and Judge-
Nonfuit, 4 d ments.

Item; for every fine, 8 d Fines.

Item for every final Judgement, 2 d

Chief Usher of the Exchequer, and Mar-
shal & Proclamator of the said Court
of Common Pleas by Lease from Cle-
ment Walker Esquire, who hath the
same Office in inheritance by grand
Serjeanty.

U

The

The four Cryers.

Hereafter insue the good Ordinances and Rules, made as well by the Kings Justices of the Common Pleas in times past, as by the Justices now being, for the good Rule and Order of the said Court; which the said Justices do charge & command every of the said Officers and Attornies well and truly to observe and keep, upon the pains therein limited.

Which said Orders were inrolled *Termin. Trin. 35 H. I. post conquestum, rol: 494. 70. Priest chief Justice of the Common Pleas, Ni. Austen. Pet. Arder, Ro. Davers, Ro. Dawby, Wa. Moile, and John Needham, Just. of the same Court.*

SECT. XXIII.

*The Cryers Fees from 1st Eliz.**Judge-
ments.*

FOR every Judgement, 4 d
For every final Judgement. 12 d

For every Non-suit, 4 d

For every fine, 8 d

Fine.

For every Recovery, 8 d

Recoveries.

For calling a Jury, if they fill not, 2 s

For every Jury, if they fill and serve, and give up their verdict the same day at the Bar, and for keeping them till then, 16 s

If the Jury lye all night, that we be forced to watch and wait on them all night. 30 s

For

For carrying every bundle of Records Carrying
out of the Treasury into the Court, and Rolls.
back again into the Treasury, 6 d
For every Attorney that is sworn, 6 s *Attor. jur.*
For every Bail, 12 d *Bails.*
For every Oath in Court, 12 d *Oaths.*
For every wager of Law, old fees, 4 s. 4 d *Wagers*
For every *Scire fac.* called in Court, 4 d *of Law.*
For every *Nisi Prius* before my Lord Calling
chief Justice, 4 s *Scir. fa.*
For every admittance to a Guardian, *Nisi pr.*
12 d *Guardi.*

SECT. XXIV.

*The Fees of the Keeper of the Court,
from 11 Eliz.*

From the Clerk of the Treasury for *Feod. an.*
hanging the Cloath of the Court for

6 s. 8 d

For a Wager of Law, and Wager-
men, 9 s. 6 d *Wager*
of Law.

For a Jury at Bar, 5 s *Juries.*

For every Attorney sworn in Court, *Attorn.*
12 d

For a *Nisi prius* in Middl. 2 s *Nisi pr.*

For a Bail, 4 d *Bails.*

For a fine, 4 d *Fines.*

For a Deed acknowledged, 4 d *Deed. ac*

For satisfaction acknowledged, 2 d *Satisf.*

SECT. XXV.

*The fees of the Clerk of the Inrolments
of Fines and Recoveries.*

<i>Of Fines and reco. ingross.</i>	I N <i>primis</i> , The fee due to the Judges by the Stat. of 23 <i>Eliz.</i> for inrolling of eve- ry fine and recovery.	6 s. 8 d
<i>Exempli- fication.</i>	<i>Item</i> , due to the Judges by the same Statute for exemplifying every inrole- ment,	5 s
<i>Search.</i>	For search of every fine inrolled, for every year,	16 d
<i>Copies.</i>	For copying every fine inrolled, for every sheet,	12 d
<i>Inrolem.</i>	For the Clerks fee for inrolling, by the Roll,	8 s. 8 d
<i>Exempli- fication.</i>	For exemplifying, after the same rate,	8 s. 4 d
<i>Rules for amendm.</i>	For every Rule upon amendments,	3 s. 4 d
<i>Retur. of writs of entry, co- venant, seizin, &c</i>	For returning Writs of Covenants up- on fines, and Writs of Entry, Summons, and Seizins upon common Recoveries, as Deputy of Record for Sheriffs appoin- ted by the Court, the ancient fee is,	2 s

SECT. XXVI.

*The Porter of the Court, his Fees from
11 Eliz.*

<i>Writs of entry.</i>	F OR every Writ of Entry with Mr. Attorney-general.	4 d
<i>Jur. al B.</i>	For a Jury at Bar,	5 s For

For a <i>Nisi prius</i> ,	2 s <i>Nisi pri.</i>
For a Wager of Law,	6 d <i>wa. of law</i>
For a fine acknowledged,	4 d <i>Fines.</i>
For a Bail,	4 d <i>Bails.</i>
For satisfaction acknowledged,	2 d <i>Satisfact.</i>
For the Attornies Oath,	12 d <i>Att. swor.</i>
For a Guardian,	4 d <i>Guardian</i>

SECT. XXVII.

Alienation-Office.

THO. Ravenscroft, Fran. Poulton, Geo. Coulthrop, Esquires, Commissioners. Tho. Bond Esquire, Receiver.
Take no fees, but receive a certain stipend from the King.

SECT. XXVIII.

Fees taken by the Master of the Chancery, for that Office appointed.

FOR signing every Docquet upon Li- Docquet.
cense and Pardon of Alienation, 2 s
For every Writ of Entry, for Lands *Pr. Writs.*
holden in chief, 2 s
For Writs of Entry of Lands not holden in chief, 4 d
For Affidavits upon discharge of Te- Affidav.
nures, 2 s

SECT. XXIX.

The usual Fees taken in the Office of Compositions for Alienation, by the Clerks there.

Certif.

Pardon.

Dischar-

ges of Pro-

ces.

Release.

Disc. of
seizure.

Acquit.

Entry of
writs.

License
of Alie-
nation.

For a certificate upon a writ of Entry,
3 s. 4 d

For the Warrant to the great Seal for
pardon of Alienation, 10 s

For viewing the Subjects evidences,
search of the Tenures, and drawing of
the Affidavit with Proces, to be discharg-
ed, 6 s. 8 d

For a Release in nature of a Pardon of
alienation upon a common Recovery, &
for the like release upon a special Livery,
and also for a Release upon a general
pardon at the Coronation, or other times,
for each of them, 13 s. 4 d

For the Notes of a Sheriffs discharge up-
on a seizure, 3 s. 4 d

For every Exo. and for certifying there-
of into the Exchequer, 12 d

For the Sheriffs acquittance, 6 s. 8 d

For entring in a large Book every writ
of Covenant fineable, *videlicet*, in the
Term-time, 6 d

And in the Vacation, 12 d

For entring in another Book remaining
in the said Office, every Docquet upon li-
cense of Alienation in the term-time, 12 d

And in the Vacation, 2 s

For

For every Docquet for a pardon of A-Pardon.
 lienation in Proces, of *Distringas*, or
Scire fac. 2 s

For every writ of Entry of lands holden *Entry of*
in capite, & entered in the same book, 6 d *Lands*
 And the Vacation, 12 d *holden.*

For indorsing every writ of Entry, 6 d *Indor-*
 For indorsing every writ of Cove-*sing bre.*
 nant in Term, 4 d *Intr.*

In the Vacation, 6 d *bre.*

For entring unfild writs, 6 d

For drawing the discharges of Tenures *disch. of*
 in Parliament, and entring them, 3 s *Tenures.*

SECT. XXX.

The under-Sheriff of Middlesex taketh these
 Fees following in his Majesties Court of
 Common Pleas..

FOR a Warrant upon a Cap. for every *Warran.*
 name, 4 d

For a return of a *Venire fac.* 2 s *Ret. ven. f.*

For a warrant upon a Cap. *ut lagat.* 4 d

For a return of a *Hab. corp. jurator.* 4 s *Hab. cor.*

For summoning the Jury, for every *Sum. jur.*
 name, 4 d

For a *Cepi Corpus*, for every name, 4 d *Cepi cor.*

For return of an Exigent, for every *Ret. Exeg.*
 name, 4 d

For return of a Proclamation, 12 d *Ret. procl.*

For a return of a *Scire fac.* 2 s *Scire fac.*

For a return of a *Nihil habet* on a *Scire*
fac. 12 d

SECT. XXXI.

The Warden of the Fleet his Fees.

A note of the Fees due and belonging to the Warden of the Fleet, and under-officers, as appeareth by a Commission under the great Seal of England from the late Queen Eliz. in the third year of her Raigh, & confirmed in the 37 year of her Raigh, what every several Prisoner in their several degrees ought to pay.

Commitments.

AN Arch-Bishop, a Duke, a Dutcheffs, are to pay for their Commitment-fee to the said Warden and his Officers, having the first Weeks diet with Wine,

21 l. 10 s

Also they are to pay for their Ordinary weekly diet with wine,

3 l. 6 s. 8 d

A Marquis, or a Marquesses, an Earle, a Countess, a Vice-Countess, are to pay for their Commitment-fee to the said Warden and his Officers, having the first weeks diet,

14 l. 11 s

Also they are to pay for their ordinary weekly diet with wine,

3 l.

A Lord Spiritual or Temporal, a Lady, the wife of a Baron, or Lord, are to pay for their commitment-fee as abovesaid, having the first weeks diet with wine,

11 l. 4 s. 10 d

Also

Also they are to pay for their ordinary weekly commons with wine, 1 l. 6 s. 8 d

A Knight, a Lady, the wife of a Knight, a Doctor of Divinity, a Doctor of Law, or others of like calling, are to pay as aforesaid for their commitment-fee, having the first weeks diet with wine, 5 d

Also they are to pay for their ordinary weekly commons with wine, 18 s 6 d

An Esquire, a Gentleman, a Gentlewoman, that shall sit at the Parlor-commons, or any person under that degree, that shall be at the same commons, are to pay for their commitment-fee as aforesaid, having the first weeks diet with wine, 3 l. 6 s. 8 d

Also they are to pay for their ordinary weekly commons with wine, 10 s

A yeoman, or any others that shall be at the Hall-commons, man or woman, are to pay for their commitment-fee, having the first weeks diet, 33 s. 4 d

Also they are to pay for their ordinary weekly commons, 5 s

A poor man in the Ward, that hath part of the Box, is to pay for his commitment-fee, having no diet, 7 s. 4 d

SECT.

SECT. XXXII.

Also there is due to the said Warden 20 d per diem, for the whole day, and 10 d for every man that he may lawfully license to go abroad.

Return of Writs.

Moreover the said Warden hath for return of writs, as Sheriffs and Bayliffs of Liberties have, by which he hath allowance for return of every *Hab. Corp.* or Attachment, 2 s. 4 d

Also for every Habeas Corpus cum causa, there are fees for returning the causes, Videlicet.

For allowing the writ, 2 s. 4 d

For returning the first cause, 2 s

For every execution, 2 d

For every action, 12 d

Which are due to the Wardens Clerks, and 5 s. to the Wardens Servants for bringing every prisoner safe to the Bar.

Bringing a prisoner to the bar.

Allowance of supers.

travelling charges

for apprehending parties

committed.

Also he hath for allowance of every Superseded. and discharge. 2 s. 4 d

Also when any man is committed by order out of the Courts of Star-chamber, Chancery, Court of Wards and Liveries, Court of Exchequer, Court of Request, and Court of Dutchy, the Wardens Servants (being sent to apprehend them, and bring them to the Fleet, according to the Tenour of their Commitment) have four pence the Mile where they are apprehended,

ded, and 6 d. the Mile back again; and the Clerk hath 2 s. for making the writ.

SECT. XXXIII.

A Table of the due Fees of the Prothonotaries Court in the Common Pleas.

These are the Fees due and belonging to the three Prothonotaries of the Court of Common Pleas at Westminst. for Entries of Declarations, Pleas. and Judgements: And also for making and entring of Writs, in their severall offices, and for other dues belonging to them, confirmed and allowed by the late King, by his Letter Patents under the great Seal of England, dated at Cam-bury the 22 of July, in the 12 year of his Reign, and are mentioned and expressed in a Schedule of Fees to the said Letters annexed, and recorded in his Majesties Court of Common Pleas at Westminster, in the Term of Saint Michael next following, Rot. quinto, sexto, septimo, octavo, nono.

Inprimis, for the entry of every com-Common mon declaration, common Plea in bar, decla. & wherein no freehold is pleaded, common Pleas.

Replication, and Rejoynder in : Actions personal,

12 d
For

Special For the entry of every special Declaration
Narr. in on, special Plea in Bar, or Abatement,
actions Freehold, Replication, or Rejoinder, and
personal. Pleas subsequent, in sheets, every sheet
 containing twelve lines at the least, and
 every line containing ten words, 2 s
 And for every sheet exceeding, 8 d

Special For every declaration in actions upon
Narr. in the case, *Ejectione firme*, accompt, annui-
Special ty, conspiracy, covent, deceit, partition,
actions. *Plegiis acquet.* and debt upon Statutes,
 plaint in Assize, and the like special
 actions, and in real, mixt and popular
 actions, if the declaration or plaint ex-
 ceed not three sheets, 2 s

And for every sheet exceeding, 8 d

Bar in For the entering of every Bar, Replication
Special tion and Pleas, subsequent in every of the
actions. actions last above recited, and in the like
 actions, not exceeding three sheets, 2 s

And for every sheet so exceeding, 8 d

Oyer de For the Oyer of every Bill, Obligation,
faits. Indenture, Record, or Certificate, or the
 like, entred *in hac verba*, not exceeding
 the length of three sheets, 2 s

And for every sheet above that length,
 8 d

Apparanc For recording of every Apparance by
 the Court, 2 s. 4 d

Recogni- For the entry of every Recognizance
za. Chall. without condition, Challenge to the
 Sheriff or Coroners, or to the Array, or
 other

other special averments,	2 s	
And for the entring of every Recognizance with a Condition,	4 s	
For every Judgement in debt, Trespass, Judgement or detinue, without a Tales for the Prothonotary,	2 s	
And for entring of every adjournment,	4 d	Adjournments.
For every Judgement with a Tales, besides the fee above recited,	2 s	Judgement.
For every <i>Remanet</i> , and Judgement for <i>Remanet</i> costs given to the Defendant by the Statute, besides the fee abovesaid,	2 s	
For every Judgement in all other actions, as well personal as mixt and real, and prohibitions, and the like,	4 s	Judgements.
For every satisfaction, <i>Recordatur</i> , discontinuance, <i>Retraxit</i> , Relinquishment, <i>Nolle prosequi</i> , or the like, in actions personal,	2 s	Satisfact. Recordatur. Retraxit.
And in real actions,	4 s	Nolle prosequi.
For the entry of a single Recovery, and the Writ of Seisin thereupon,	10 s. 6 d	Recovery.
And for every Voucher more,	4 s	
For the entry of every <i>Mittimus</i> , & <i>Dedimus potestatem</i> , for a common Recovery,	6 s	
For the entrance of a Summons <i>ad Warr.</i> for a common Recovery, and the writ of Summons <i>ad Warr.</i>	4 s. 6 d	
For the entry of a <i>Certiorari</i> to certify a warrant of Attorney for the tenant or voucher,	4 s.	And

**Foreign
Voucher.**

And if for both, 6 s
For every foreign Voucher sent to the
common Pleas to summon the Vouchee,
if the Record be not above three sheets,

2 s

And every sheet more, 8 d

The like fees are to be paid when the
Record is remitted back again, after the
Voucher determined, 2 s. 8 d

**Special
Verdict.**

For the entry of every special Verdict,
whereupon a *Cur. advisar. vult* is entred,
being not above the length of three sheets,
written as abovesaid, 2 s

And for every sheet exceeding that
length, 8 d

**General
Verdict.**

For the entry of every general verdict,
with a *Cur. Advisar. vult*, without a
Tales, 2 s

And with a Tales, 4 d

**Remit-
titur.**

For the entry of every remittitur of debt
or damages, 12 d

Inform.

For the entry of every Information
upon any penal Law, and signing the
Subpana only, 2 s. 8 d

Prohib.

For the entry of every surmise for a
Prohibition to be granted, not exceeding
the length of three sheets, as aforesaid, 2 s

And for every sheet above that length, 8 d

**Proof de
sugess.**

For the entry of the Oath of every
witness to prove the surmise in a Prohi-
bition :

bitio, or *Audita querela* brought by an *Infant*, and the entry of the proofs *de morte* & *vita viri*, dower, and the like actions and suits, 2 s

For the releasing of any default in any real action, 2 s

And entring the recital of the grand Cape, 4 s

And if under five marks, *Nihil*.

For examining every Record of *Nisi Exam.* 12 d *record*, *pro*.

For making the Record for tryal of an *Record* issue in any of the County Palatines, for *in coun.* the first three sheets, 2 s *palatina*.

And for every sheet more after, 4 d

For the Exemplifying of any Record, *Exempl.* not exceeding six sheets, 5 s *plificat.*

And for every sheet exceeding that rate, 8 d

For the entring of Seisin in dower, and *Seisin in* dying seised, the return of the Seisin *dower.* exceeding not above three sheets, 4 s

For every sheet exceeding, 8 d

For entring of Writs of Exemption *de Non po-* *non ponend. in jurat. ad parentes, de li-* *berat. allocand.* And Protections, *nend. in* *cogni-* *assis.* *Cogn de* *pleas.* zance of Pleas, and the like, according to the rates abovesaid, if they exceed not three sheets, 1 s

And for every sheet exceeding, 8 d

For

Judge- ment per default in wast.	For the entring the default upon the distress in waste, <i>Quare impedit</i> , & the like, and Judgement thereupon, if the title or count do not exceed three sheets, 6s. 4d
Quare impedit.	And if it be more then as aforelaid, for every sheet, 8d
Quo warranto	For entring of a <i>Quo warranto</i> , if it exceed not three sheets, 2s
	For the entry of every Plea thereupon, according to the same rate before, 2s. 8d
Account before Auditors.	For the entry of a Plea of Accompt pleaded before Auditors, if it be not above three sheets written as abovesaid, 2d
	And if more, for every sheet exceeding, 8d
Severan- ces. Aide Prayer.	For the Entry of every Summons, and Severance, and Aide Prayer, 2s
	For the admission of an Infant to his <i>Prochein amie</i> , or Guardian, 2s
	And if it be by commission, 4s
	For entring of the defendants discharge upon a <i>Cap. pro fine</i> , or for a contempt, 2s
	For the like upon Rescous returned, and admitted to his fine, 4s
	For traversing of a Rescous, and Issue thereupon, 6s
	For entring of the allowance of every general and special pardon of Outlawry before Judgment, and after, 5s. 4d
	For entring of a <i>Dies dat.</i> in Debts detinue and trespass, 12d
	And

And in all other actions, 2 s.

For the entring of the Receit of a feme-covert, Tenant in tail, Lessee for years, or the like, 2 s.

And for the entry of the plea, if it exceed not three sheets, 2 s.

And for every sheet exceeding, 8 d.

And if the Receit be by Writ, then more for entring of the Writ, 2 s.

For the entring of an Affize delivered in the Common Pleas by Justices of Assize to be inrolled, for every sheet, 12 d.

And if the Affize come into the Common Pleas by Certiorar. then more for entring the Certiorar. 2 s.

For the entring every abridgement of *Abridg.* the demand in dower, assize or the like, 2 s.

For the entring of every *Pone* to remove a Plea by Writ out of the County Court there holden by Justices, and for the return of the *Pone*, 4 s.

For the entring of any Record sent in *Mittimus*. the Common Pleas by *Mittimus* or otherwise; and likewise for the entry of every *Rege inconsulto*, or such like, if it exceed three sheets, 2 s. *consulto.*

For every sheet so exceeding, 8 d.

For the entring of every Certificate of Bastardy certified by the Bishop, and the awarding of the Writ and Judgement thereupon, 6 d.

For entry of the License of the Court,

X

to

Journies. to purchase a new writ by Journies accounts. 2 s.

Delivery of Records. For the entry of every Original Writ delivered of Record in real or mixt actions, 8 d.

Challenge. For the entry of every sheet above three sheets of every challenge to the Sheriff or Coroners, or to the Array, or other special averments, or the like, 8 d.

Remanet. For the entry of every *Remanet* in real Actions, 4 s.

For the entry of every *Remittitur* in real and mixt actions, 2 s.

Aid Pryer. For the entry of every sheet above three sheets of every aid Pryer, 8 d.

Admission. For the entry of an admission of a Guardian, if it be by Commission and *Mittimus*, 6 s.

Privy-Seal. For the entry of a Privy Seal, for every sheet, 8 d.

License. For the entry of the License of the Court to compound upon penal Statutes, 2 s.

Warrants of Attorney. For entry of every warrant of Attorney made by the Tenants in common Recoveries, or the like, after their appearance at the Bar, 2 s.

Qua. Imp. For every judgement by special confession of the title in *Quare imp.* or the like, if it exceed not three sheets, 4 s.

Special Imparlance. And for every sheet after, 8 d.

For the entring of every special imparlance, 2 s.

For

For the entring of every Committitur Commit-
of a Prisoner by the Roll, being brought titur.
to the Bar by Writ and every tender of
the body in discharge of the Bail, 2 s.

But if it be without Writ, then either
Case but 2 s.

For entring of every demand of a Pri-
soner to appear and remand the said Pri- Remand.
soner, 4 s.

For the entry of every Essoyn in the Essoyn.
Plea-rolls, as upon Wagers of Law,
12 d.

For the entry of the Bail upon every Bail.
Reversal for insufficiency of Exigent, or
of the Return. 2 s. 4 d.

For the entry of every declaration in Nar. sur
debt upon demise, or the like special demise.
Declaration, if the Declaration exceed
not three sheets. 2 s.

And if such Declaration exceed the
number of three sheets then for the
entry of every such sheet containing
twelve lines, and every line ten words,
8 d.

For the entry of every several Count Common
upon an Original in Debt, Detinue, Decla.
Trespas, and the like. 12 d.

For the entry of every several Count Actions
in Actions upon the Case and Account, on the
and the line, upon several daies, if the case.

Count exceed not three sheets, 2 s. Accounts.

And for every sheet so exceeding, 8 d. Special

For the entry of every special conditi- conditi-

on, or indorsment of any obligation entered in *hec verba*, not exceeding the length of three sheets. 2 s.

And for every sheet so exceeding, 8 d.

Common
condi.

But if the condition be in debt for payment of money at one day, or under the length of two sheets, then for the entering thereof but 12 d.

Mitti-
mus, Cer-
tiorari.

For the entry of every *Mittimus* or *Certiorari*, and the return thereof, 4 s.

But if the return thereof exceed three sheets, then for every sheet so exceeding, 8 d.

Prohibit.

For entering of the Court in a Prohibition, and pleadings thereupon after an appearance of the Defendant, not exceeding the length of three sheets, 2 s.

And for every sheet above that length, 8 d.

Attaint,
false
Judge-
ment.

For the entry of every Writ of Attaint, or false Judgement, 2 s.

For the entry of the return thereof, and the assignment of Errors, or false Oaths, not exceeding three sheets, 2 s.

And for every sheet more, 8 d.

Proof. in
a Prohib.

For the entry of every sheet above three sheets of the Oath of every witness examined to prove the surmise in a Prohibition, or *Audita querela* brought by an

Audita querela,

Infant; and the entry of the proofs *De*

*And Dow-
er.*

morte & vita viri in dower, and the like actions and suits, 8 d.

SECT. XXXIII.

Fees due to the Prothonotaries for Writs, Fees for
and the entries of them amongst other Writs.
dues.

For every Writ of Prohibition or Prohibit.
consultation, not exceeding four
sheets,

For every sheet so exceeding,

For every Withernam; Return. Habend. Wither-
after appearance; Second deliverance, nam.
Writ of privilege, Habeas corp. Pro-Habeas
cedend. Certio a. i., summons & resum-corpus.
mons, Petit cape; vs. fac. sci. fa. Elegit, Sum. &
extent, supers. Subpœna, Writ to the Bi-al. bre.
shop, Attachment in Ass. Distrin. Jur. Spena.
Habeas corpus, and Distringas in Ass. & at-
taint, and the like Habere fac. Possessionem,
Writs of View, Mittimus, Idemprisar. nois.
and every other special Writs,

For entring of every such Writ, which Entry of
requireth an entring, not exceeding four Writs.
sheets,

And if more, for every sheet as above-
said,

For every Ca. fa. & Fi. fa. 6 d. Ca. fa.

For every Testat. sur. ca. fa. & Fi. fa. fi. fa.
distringas ad deliberand. and Writs to in-Testat.
quire of damages in Trespass and Re-distr. en-
plevin,

For Writs to inquire of damages in tras.

X 3

Cove-Inqui. in
casu.

	Covenant, Ejectment, actions upon the case, and the like,	2 s.
	For every <i>Capias pro fine</i> ,	6 d.
Cap. & Exi. pro fine.	For the <i>Exigent</i> upon a <i>Capias pro fine</i> ,	10 d.
Intra. Retor. B. c.	For the entry of the Return of every Writ in the Prothonotaries Roll other than the <i>Ca. sa.</i> return'd <i>non est invent.</i> and the <i>Fi. sa.</i> returned <i>nulla habet bona</i> , whereupon further process is awarded, not exceeding four sheets,	2 s.
	And if more, then for every sheet,	8 d.
Bail sur. priv. Habeas corp.	For the entring of every Writ of Privilege, or <i>habeas corpus</i> , with the Bail for one cause	6 s.
	And for every name more,	2 s.
Committitur.	For entry of every <i>Committitur</i> upon a <i>habeas corpus una cum die & causa</i> ,	2 s.
	For every other cause,	2 s.
Reversal.	For every Reversal upon an Outlawry for default of Proclamation, with one name, and the Bail or <i>nolle prosequi</i> ,	4 s. 4 d.
	And for every name more,	2 s.
Ca. sa. & pt. Devastavit.	For every <i>Ca. sa.</i> & <i>Fi. sa.</i> after a <i>devastavit</i> ,	2 s.
	Whereof by allowance from the Prothonotaries the Clerk hath had,	8 d.
Inquir. in casu, &c.	For every sheet exceeding four sheets of Writs to inquire of Damages in Covenant, Ejectment, Actions upon the case, and the like actions,	4 d.
Libertat.	For the Writ of <i>Libertat</i> , or the like Special Writs,	2 s.
	Where	

Whereof by allowance from the Prothonotary the Clerk hath had, 8 d.

For the entry of every such Writ, and *Utr. con.* the entry of every other special Writ *Bro.* which requireth an entry, not exceeding four sheets, 2 s.

And for every sheet so exceeding, 8 d.

For every *Distringas* in detinue, 12 d. *Distrin-*

Whereof the Clerk by allowance from the Prothonotary hath had, 4 d. *gas.*

For Writs to enquire of Damages in *Inquire in* Covenant, Ejectment, actions upon the *case, &c.* Case, and the like Actions, if they exceed not four sheets, 2 s.

Whereof by allowance from the Prothonotary the Clerk hath had, 8 d.

For the entry of every *Committitur*, upon a *babeas corpus una cum die & causa*, *Commit-* with one cause returned, besides the entry of the Writ, 2 s. *situr.*

And for the entry of the Writ, 2 s.

And for every other cause returned, 2 s.

For the signing of all proceſs upon in- *Proceſs* formations, excepting the first *Subpœna, sur. Infor-* *mations.* 1 s. 4 d.

SECT. XXV.

The Prothonotaries Clerks Fees.

Copies.	IN <i>primis</i> , for the copies of common declarations and pleas, for every sheet containing twelve lines, and every line ten words, 4 d.
	For every sheet in real and mixt actions, and actions upon any Statute, and the like, 8 d.
Draughts.	For drawing of every special declaration and plea, for every sheet, 8 d.
Continuance.	For every continuance every Term of every issue-writ, <i>imparlance</i> , <i>demurrer</i> , of special verdict, or adjournment, 4 d.
	For exemplifying every Recovery with a single voucher, 4 s. 6 d.
Exemplification.	For exemplifying of a double voucher, 6 s.
	And for every voucher more, 12 d.
	For exemplifying of any record, not exceeding eight sheets, 5 s.
	And for every sheet more, 6 d.
Draw. of writs, & entries thereof.	For drawing of every extraordinary long writ, after the rate of every sheet, 8 d.
Copies of Judgements.	And for the entry thereof (if it be so required) for every sheet, 4 d.
Entries in remem.	For a copy of a Judgement, for every sheet, 4 d.
	For the entry of every writ, and the Return

Return thereof into the Prothonotaries
Remembrance for drawing up of a
judgement, if it exceed not three sheets,

6 d.

And for every sheet after,

4 d.

For entring of every common Rule
into the Bill of Pleas, or common Re-
membrance,

4 d.

For the entring and ingrossing every
Summons for a Recovery, and for the
making of the writ of Summons,

2 s.

For entry of every *Mittimus* and *Dedi-*
mus potestatem for a Recovery,

2 s. 6 d.

For the ingrossing of every *Nisi prius*, *Ingro. nisi*
after the rate of every sheet,

4 d. *prius*.

For entring of every *Testat. sur ca. fa.* *Intr. ca. fa.*
& fi. fa.

4 d. *testat.*

For the search in every Term in the
Prothonotaries Office in his doggers, or
Remembrances,

4 d.

For the issuing out of the Court-mo-
ney, of the party receiving it,

1 d. in l. *money*.

For the making of every long writ, as
Prohibitions, and the like, for every
sheet,

4 d.

For the prosecution and issuing out of
process for the King to bring in the par-
ty for to make fine for his contempt un-
till the party render himself, or be out-
lawed, besides the fees of the Court,

3 s. 4 d.

And if there be cause of prosecution
after the *Exigent* returned, then more,

3 s. 4 d.

For

Copy sug-
gest.

Tras.

Prohibit.

special

ver. &c.

For the copies of suggestions to grant
a Prohibition for every sheet, 8 d

For drawing of every surmise to have
a Prohibition, special verdict, and the
like, for every sheet, 8 d

SECT. XXXVI.

*The Prothonotaries Clerks Fees for
Informations only.*

Informa-
tion.

FOR ingrossing of every information, 8 d

For a copy of the said Information, if
it amount to the number of five sheets of
paper, or upwards, 3 s. 4 d

If it be under the number of five
sheets, then for every sheet, 8 d

For the making of every *Capias pro
fine* upon an Information, 6 d

For entring of the general issue upon
the Roll where the Information was first
entred in the Term, it was first exhibi-
ted, 8 d

For the Registering of every License to
compound in the Office-book, 4 d

*An antient fee due to the second Pro-
thonotaries Clerks only.*

Fines.

FOR recording of every fine acknow-
ledged at the Bar, by Writ, and mo-
ved by a Serjeant, 4 d

SECT.

SECT. XXXVII.

*Fees due to the Secondaries of the Pro- Secondaries fees.
thonotaries in their several Offices.*

FOR the copy of every common Rule, *Copies of
4 d rule.*

For taking a note of the Rule of the Judges in Court upon a motion of a Serjeant; for drawing the same Rule in paper in Latin words, & entring it into the bill of Pleas, and the copy thereof, the draught not exceeding six lines in paper, *Draw. & entring of rules.*

If the Rule exceed six lines, then *8 d*

For every wager of Law in Court, or Non-suit of the Plaintiff upon a wager of Law, *Wag. of law.*

For the entry of the Commititur of any Defendant to the Fleet in Execution of any Judgement, or otherwise in Court, and for making a copy thereof for the warden of the Fleet, containing the cause of the commitment, *Commititur.*

For the entring of every commitment to the Fleet of any person yielding himself in discharge of his Bail, and for the like copy,

For attending the Judge from his chamber to *Westminster*, to take a privy verdict tried at the Bar, *Privy ver.*

For reading the record of a demurrer in Court, or verdict, *Lec. Record.*

For

<i>Bails.</i>	For taking bail in Court,	12 d.
<i>Admiss. to</i>	For entring of an admission of an In-	
<i>Guardi-</i>	stant to his prochein Amy or Guardian, in	
<i>ans.</i>	the Prothonotaries remembrance,	12 d.
<i>Cop. of is-</i>	For the copy of the Issue and Jurors	
<i>sue and</i>	names to be delivered to the Jury upon	
<i>jurors</i>	any tryal at the Bar,	12 d.
<i>names.</i>	For reading of evidences upon tryals	
<i>Tryal at</i>	at the Bar of each Party, Plaintiff and	
<i>Bar.</i>	Defendant,	3 s. 4 d.
	For entry of every satisfaction by spe-	
	cial warrant, <i>Recordatur</i> , and discontinu-	
<i>Satis. Re-</i>	ance,	8 d.
<i>cor. Dis-</i>	For every satisfaction by general war-	
<i>contin.</i>	rant,	4 d.
<i>Satisfac-</i>	For entry of every Will or Letters of	
<i>tion.</i>	Administraction to inable an Executor or	
	Adminisrator to acknowledge satisfac-	
	tion, and the entry of the satisfaction,	12 d.
<i>Interro-</i>	For every copy of Interrogatories,	
<i>gatories.</i>	depositions of persons examined upon	
	Interrogatories by order of the Court,	
	for every sheet,	8 d.

Per breve de Pri-
vato sigillo,
 Wolfeley.



THE
SOLLICITOR
IN THE
Kings Bench.

CHAP. XIII.

SECT. I.

The proceedings in the Kings Bench as now it consists,

BEfore the Norman Conquest, as I have said before, there was only one high Court, for Law and Equity; which then followed the King himself, and is therefore to this day called the Kings Bench. For although there be since that time many peculiar high Courts advanced, by reason of the multitude of suits still increasing with the Iniquity

quity and age of the World ; would not suffer them to be all decided in one place, without tedious and intolerable delay of causes, to the great vexation of men. This made the Princes follow the counsel of *Jethro* the Father-in-law of *Moses*, the burden of suitors growing too numerous, to divide themselves, as a great River into smaller Rivulets, as you may perceive if you thoroughly observe the matter and subject of all these Courts, and the method of their proceedings, they are, as it were, but so many *Branches* sprung out of that one tree, or streams derived from the same Spring and fountain.

And when the Court of the Kings Bench was left to it self, the King no longer frequenting the same in person, then did the Authority of the Chief Justice of *England* cease and decline from that Original greatness formerly they had ; and was restrained by a form of *Patent*, (as now it stands) *ad placita coram nobis tenenda* ; which is an ordinary and limited jurisdiction.

But the Court of the Kings Bench, as now it stands, consists of the *Prothonotary's* side, for civil personal actions between party and party ; and the Crown-side, for indictments, inquisitions, presentments, and all pleas of the Crown, touching matters capital or criminal.

The chief or supreme Officer of this Court, is the Lord Chief Justice, being assisted with three other Judges.

The Subordinate Officers are

The Chief Clerk, *Prothonotary*, or Master of the Kings Bench-Office, for Actions between party and party ; for the most part personal, and some mixt :
he

he hath a Secondary who executes his Office; and the Clerks of his Office, who are the proper Attorneys of that Court, draw and enter all Declarations and Pleadings, and other proceedings upon Records, and are accountable to him for the same.

He hath also his Deputy, who keeps the stamps for the signing of Writs: who signs all *Latitats*, which is the first Writ whereby they begin any suit: he signs also Writs of *Alias* and *Pluries*, *Capias*, *Elegits*, *Habeas corpus*, *Procedendo*, *Habere facias possessionem*, *Certiorari*, *Distringas ballivo*, *Distringas nuper vic. Return.* *Habend. Capias in withernam*, *second deliverance*, and some others; he also keeps the Remembrances of all Records, whereby you may find out any Record with little trouble: especially if you know the Term when it was entered, and the Attorneys name. And also all Writs returned, and *Postea's*, and Writs of Error are kept and filed in his Office; and also common Bails, and Special Bails, after they are accepted by the Plaintiff or his Attorney, are also filed and entered upon Record in his Office.

The next Officer of this Court is the *Custos Brevium*, whose Office it is to file all Original Writs and other Writs, wherein you proceed against any Person to the Outlawry: he also makes up all Records of *Nisi prius* for tryals at the Assize; and keeps several Clerks under him, who write the same: but most usually the Attorney for the Plaintiff, or the Defendants Attorney, if you go to tryal by Proviso, ingross their Records themselves, whereby they sooner dispatch their business, paying for every Press, which is to contain sixty lines, 6 s. 6 d.

The Secondary to the Prothonotary, whom the Clerks call the Master of the Office, he alwaies attends the sitting of the Court, for to examine business which is referred unto him by the Judges; and afterwards

wards makes his report thereof how the case stands: he signs all judgements, and taxes costs thereupon, and gives all Rules to answer and reply: and for Tryals by Proviso, and many other; and usually resolves all doubts and questions of the Attorneys: and if any difference arise between any of the Attorneys or Clerks about matter of practice; it is usual with them that are fair practitioners to refer the matter unto him to determine, and not to trouble the Court with unnecessary motions, and put their Clyents to charges, which may that way be saved.

The Clerk of the papers, who makes up all special Pleadings and Demurrers, which the Plaintiffs Attorney most commonly speaks for; and afterwards his office is to give a rule upon the side of the Paper-book, for the Defendants Attorney to bring the same to him again to be entred in four daies, or else Judgement to go by default.

The Clerk of the Declarations, who keeps the files of declarations; and with him all declarations are filed after they are ingrossed in Parchment, and continued on the back from the Term you declare till issue joyned.

There is also an Officer who keeps the Sign and Seal for the Bills of *Middlesex*, who keeps a Book, where he enters the Plaintiffs and Defendants names in all such Writs: and there the Defendants in Bills of *Middlesex* enter their appearances, so that there you may search for any Writ taken out, or appearance entred.

The Clerk of the Rules, whose office is to attend the Court, and take notes of all rules and orders that are made in Court, (except those which belong to the Crown-office,) and afterwards draws up the rules, and enters them in a book at large, for which he hath eight pence, and for the copy of every rule,
four

four pence, if it be of the same Term, otherwise it is eight pence: he also files all Affidavits that are used in Court, and hath the benefit of making copies of them, for which his Fee is four pence *per sheet*; and with him are given all Rules of course, as Rules upon a *Capi corpus*, *Habeas corpus*, for a *Procedendo*, *Posseas*, Writs of Inquiry, and the like.

Philizers are in this Court also, one for each County in *England*: who make the mean Process, after original in proceeding to the Outlawry, as the *Capias*, *Alias*, *Pluries*, &c. And they have the benefit of all Writs belonging unto them, and entries thereupon, allowing the Prothonotary nothing for the same.

The Marshal of the Kings Bench hath the custody of all Prisoners who are committed by the Court; and every one that is sued in the Kings Bench, is supposed to be in custody: So that they say in their Declaration, *A. B. the Plaintiff Queritur de C. D. in custod. Marrescalli Marrescallie Domini Regis, coram ipso Rege apud westminst. existen.* &c. alwaies supposing in their declaration that the Defendant is in Prison, viz. in the custody of the Marshal of the Kings Bench; for if a man be arrested in any City or County, and remain in Prison there for want of Bail, you cannot declare against him, unless you remove his body to the Kings Bench by *Habeas corpus*.

The Marshal either by himself, or his Deputy, or Servants, alwaies attends the Court, to receive Prisoners committed to their custody.

The Clerk of the Errors allows all Writs of Error, and makes *Superfedeas* thereupon, into what County you please to have them, as the Clerk of the Errors in the Common Pleas doth; and transcribes the Records into the Exchequer-chamber.

The Cryers alwaies attend the Court, either to call

Non-suits, give Oaths to Witnesses, Jury-men at tryals, and do such other business as the Court shall direct: and at the end of every Term they do attend the Court.

There is also a Porter who is to bring the Records into the Court when they are there to be used.

This Court of the Kings Bench holds Plea in all Actions of Debt, Detinue, Covenant, Account, and all Actions upon the case, either of Promises, or for Scandalous words, or for special Nuisance &c. Trover and Conversion, and many of the like nature.

SECT. II.

How to commence a Suit in the Kings Bench.

THeir leading Process is a Bill of *Middlesex*, in the County of *Middlesex* only, if the Defendant live or can be arrested in that County; but if the Defendant be to be Arrested in any other County, then their first Writ is a *Latitat*, and after that an *Alias* and *Pluries Cap.* if the Defendant cannot be taken by the first Writ.

This Bill of *Middlesex* is in the nature of an Original to the *Latitat*, for in their *Latitat* they always feign a Bill of *Middlesex* to be first returned *non est inventus* by the Sheriff of *Middlesex*, and that the Defendant *Latitat, vagatur & discurret* in that County to which the *Latitat* is directed.

The form of the Bill of *Middlesex*, is thus.

Midd. ff. Præcept. est Vic. quod capiat A. B. si, &c. Et eum salvo custod. ita quod habeat Corpus ejus coram Domino Rege apud westmin. die Lune prox. post tres septimanas S. Michaelis, ad respondend. R. S. de placito transgr. per Bill. Henley.

The

The Latitat.

Carolus Secundus, &c. Vic. Southi. salutem. Cum nu-
per præcipimus Vic. nostri Midd. quod capiat A. B. &
C. D. si invent. fuer. in balliva sua, & eos salvo Custod.
ita quod habeat corpora eorum coram nobis apud Westm.
die Mercurii prox. post tres septimanas S. Trinitatis, ad
respondendum. R. S. de placito transgressionis; & idem
noſter Vic. Midd. ad diem præd. nobis mand. quod præd.
A. & C. non sunt invent. in balliva sua, cum ex parte
præd. R. in curia nostra coram nobis ſufficienter teſtat. ſit
quod præd. A. & C. latitant. vagant. & diſcurrunt in
Balliva tua: præcipimus tibi quod capias præd. A. & C.
ſi invent. fuer. in balliva tua, & eos ſalvo cuſtod. ita
quod habeas corpora eorum coram nobis apud Weſtm. die
Lune prox. poſt tres ſeptimanas S. Michaelis, ad reſpon-
dend. præſat. R. de placito præd. Et habeas, &c.

This was the ancient form, which ſerved as a cure for all Diſeaſes: ſo did this Writ in all caſes, never expreſſing any cauſe whatſoever, but only Treſpaſs, until by a late act of Parliament it was ordained that no Writ of Treſpaſs ſhould hold the De-fendant to any Bail, any further than an appearance: and every Writ ſhould expreſs the cauſe of Action, as the Common Pleas Writs do, and all other Proceſs ought to do.

Since they have in their Bill of Middleſex, and alſo in the Latitat and Alias, &c. added an *ac etiam*, after the *de placito transgressionis*, comprehending the ſpecial matter, or cauſe of action; in this form: *Ac etiam billæ præd. quer. verſus præd. A. B. pro 20 li-*
bris de debito ſuper obligationem, ſecundum Conſuetudi-
nem cur. noſtræ præd. exhibend. or if it be any other
ſpecial action, or matter requiring good Bail, they
recite in the Writ, as, ac etiam billæ pro quinquaginta
libris ſuper aſſumptionem, vel promiſſionem, convent.

fract. or the like, as the nature of the action requires; specifying the case, that so the Sheriff may take Bail accordingly. The form of the *Alias Capias* in the Kings Bench, if the Defendant be not taken upon the *Latitat*, is this.

Ca olus secundus, &c. Vic. Southt. salutem. Præcipimus tibi, sicut alias præcipimus, quod capias A. B. si invent. fuerit in balliva tua & eum salvo custod. ita quod habeas corpus ejus coram nobis apud Westm. prox. die Mercurii post tres septimanas Sancti Michaelis, ad respondend. C. S. de placito transgr. (Ac etiam bille, if the case require it.) Et habeas, &c.

The form of the *Pluries Cap.* is the same, only altering the word *Alias* into *Pluries*.

These Writs you may renew every Term, until the Defendant be arrested. But if the *Latitat* remain unrenewed for five Terms after you have taken it out, then you must have a *Latitat de novo*, for that you cannot renew the old one.

If any of the Defendants in one of these Processes dwell within a Liberty where the Sheriff cannot enter, and upon a warrant from the Sheriff, directed to the Bailiff of that Liberty, if the Bailiff execute it not, you must get the Sheriff to return a *Mandavi Ballivo* to your Process; and upon that, the course is to have a *non omittas propter aliquam libertatem*, &c. and upon that, the Sheriffs Officers may enter and execute the warrant.

When upon a Bill of *Middlesex*, *Latitat*, or any other Writ, the Defendant or Defendants be arrested, and have entred into Bond to the Sheriff for their appearance according to the return of the Writ: then if the party or parties do not appear at the return of the Writ, you must call to the Sheriff for a

return

return of the Writ; and upon a *Cepi Corpus* returned, if the party do not appear at the return, you may give the Sheriff a Rule to bring in his body on pain of forty shillings, &c. And then if he appear not, you may have a *Habeas corpus* upon the *Cepi corpus*, which costs two shillings four pence. And if the Sheriff will not return this Writ of *Habeas corpus*, you may amerce him as before; or if he return *Languidus in prisoa*, you may have upon that a *duces tecum licet Languidus*, &c.

At the return of all or any of these, you may amerce the Sheriff, and he shall pay it, after those Rules given in the Kings Bench.

If you will estreat your Amerciaments into the Crown-Office, the charge of every Rule estreated is two shillings four pence: and in this course you may both amerce the Sheriff, and prosecute till such time as he doth appear: but if there be any great Amerciament, the Defendant will appear to save himself from the Sheriffs Bond; And after the Amerciaments are returned into the Crown-Office, if they be not certified and returned into the Exchequer, which is once in every half year: where they are estreated before that time, if you be sued upon the Sheriffs bond, you may upon motion of the Court, if the Plaintiffs Attorney (to whose Clyent the Sheriffs bond is commonly assigned,) will not consent otherwise, that you are contented to appear as of the same Term the first Writ was returnable, and to accept of a Declaration, and not to delay the Plaintiff in his suit; the Court will usually order the suit upon the Sheriffs bond to stay: or if the Amerciaments be estreated, then upon the same offer, and also to take off those Amerciaments, the Court will order the like.

The manner of appearing in the Kings Bench, is to file a Bail, written in Parchment with the Master

of the office, the form whereof is as follows, viz;

If it be a Common Bail, thus:

*Souht. ff. A. B. de H. in Com. præd. Teoman, traditur,
in ballium super Cepi corpus.*

*T. R. Johanni Doe de London Teoman, &
Att. Richardo Roe de eadem Teoman.*

Ads. C. L.

If you put in Special Bail upon a *Habeas Corpus*, then thus.

A. B. (naming the Defendant) *traditur in ballium* to such persons as are the Bail, naming them and their additions and place of abode, (instead of *John Doe* and *Richard Roe*) at the suit of the Plaintiff in the Plaint, not naming the Defendant as you do in the common Bail: which Bail after it is accepted, must also be filed with the Master of the Office.

SECT. III.

What Cases require good Bail in the Kings Bench.

IF the Defendant be indebted to the Plaintiff by Bill, Bond, or otherwise, to the value of ten pounds or above, you may require, and stand upon good Bail, and force the Defendant to it.

But if it be in any Action of the Case for words, though you are like to recover great damages, and the Defendant be nothing worth, you cannot hold him to good Bail, unless in some special case the Court order
Neither

in the Kings Bench.

Neither is good Bail requirable in *Ejectione firme*, nor in any Action of Trespass, unless the Court order it in some special Cases.

There is no good Bail required against Executors nor Administrators, in any action brought against them, except direct proof be made that they have wasted the goods of the Testator.

If a Defendant put in Bail in the Kings Bench, either common or special at the suit of another, any stranger may upon this Bail put in a Declaration of the same Term the Bail was put in; which practice is not used in the Common Pleas: But the Plaintiff at whose suit the Defendant was arrested, may declare the second Term after the Defendants appearance upon the Bail, and may upon one appearance put in as many Declarations as he will.

But although a stranger may declare upon the Defendants appearance upon any Bail, whether special or common; yet that special Bail shall be but common Bail to him; so that he shall take no benefit thereof, although he declare the same Term that the Bail was put in.

If a Defendant appear in the Kings Bench, in *propria persona*, the Plaintiff must declare within three daies, or else he will have costs against him.

When the Plaintiff hath declared, if his Clerk do not call for answer, nor enter the action within three Terms after the appearance of the Defendant, the Plaintiff may be non-suited, and the Defendant recover costs against him.

And if you arrest one in the Countrey upon mean Process, and he remain in the County-Gaol three Terms for want of Bail, and you remove him not unto the Kings Bench, where he must be, before you can declare against him; The party so in Prison may be discharged by *Superfedeas*, filing common Bail.
He

He may by the new Rules be discharged in two Terms; if he be not removed, if not of course, yet I am sure upon motion.

SECT. IV.

How to proceed to Declaration after appearance in the Kings Bench.

THe manner of proceeding in the Kings Bench is somewhat different in respect of the delivery of their Declarations, from that in the Common Pleas.

The Clerks of the Office, who are the proper Attorneys, and the Attorneys at large in their names, draw their Declarations; their forms are after this manner, different from the Common Pleas: for in the Common Pleas they write the Original Writ, but in the Kings Bench, they say the Plaintiff complains against the Defendant, in custody, &c. as you may see by these Presidents.

¶ A Declaration in Debt in the Kings Bench for a Horse, to be paid for on the Plaintiffs day of Marriage.

South. ff. K. L. queritur de J. R. in Custodia Marreschalli Marresc. Domini Regis coram ipso Rege apud Westm. existente, de placito, quod reddat ei quadraginta solidos quas ei debet, & injuste detinet, pro eo, videlicet, quod cum prædictus I. R. (tali die & anno) apud C. emisset de eodem K. unum Spadonem, pro quadraginta solidis, solvend. eidem K. super diem Matragii ipsius; idemque K. L. in facto dicit, quod
Matragium

Matrimonium ipsius K. L. cum quadam A. H. modo uxoris ipsius K. L. habitum & celebratum fuit apud C. præd. (tali die & anno) tunc prox. sequen. per quod actio accrevit eidem K. ad Exigend. & habend. de præfat. I. R. prædictos 40 s. præd. tamen I. licet sæpius requisit, præd. quadraginta solidos eidem K. nondum solvit, &c.

For nursing the Defendants Child, a Declaration.

S. ff. A. B. queritur de C. D. in custod. Marr. &c. de placito, quod reddat ei triginta libras legalis monete Angliæ, quas ei debet, & injuste detinet pro eo, videlicet, quod cum prædictus C. D. primo die Septembris, anno &c. apud M. posuisset quendam D. D. filium suum cuidam Elizabethæ B. uxori præd. A. B. ad lactand. nutriend. & custodiend. ceteraque quæ ad officium nutricis incumbunt, in hac parte faciend. ac præd. primo die Septembris per magnum tempus, videlicet, per unum annum integrum & tria quatteria anni extunc prox. sequend. capicnd. pro præmissis de præfat. C. D. pro qualibet septimana durante termino illo, sex solidos: & licet prædicta Elizabetha, omnia & singula præmissa per tempus prædictum bene & fideliter fecerit, prædictus tamen C. D. prædictos sex solidos septimanatim, quorum denariorum summa per tempus præd. se attingunt ad præd. triginta libras, idem tamen C. D. licet sæpius requisit, nondum solvit, &c.

A President of an Action of the Case brought against a Maltster, by a Brewer, for selling him corrupt and unwholsome Malt.

L. ff. A. B. queritur de H. P. generoso in Custod. Mar. &c. pro eo, videlicet, quod cum idem A. (tali die & anno) ac per magnum tempus, tunc ult. elaps. fuisset Pandoxator Cervisie lupulatæ apud F. in dicto Com. Lincoln. ac bonam & salubrem Cervisiam lupulat. de bono & sano brasio, per totum tempus prædict. confecisset, & diversis ligis & fidel. subdit. dicti Domini Regis tam in Suburbis Civitat. Lincoln. quàm in diversis villat. prope L. prædict. inhabitant. & familias habentibus per tempus præd. vendidisset & utterasset: ac eo prætextu idem A. diversa bona lucra, & proficua per venditionem & utterationem hujusmodi salubris & bonæ Cervisie lupulat. per ipsum de bono & sano brasio confect. & pandoxat. erga vicibus sui manutentionem, lucrat. & adept. fuisset. Cumque etiam prædictus H. (præd. tali die & anno) apud F. præd. in Com. præd. & antea fuisset & adhuc existit, Communis Brasiator, Anglico a Maltster, ac Brasium per idem tempus circunque Brasium emere volent. vendidisset: ac etiam cum præd. H. (præd. tali die & anno) apud F. præd. in Com. præd. bargainasset 200 quarteria boni, sani, & merchandizabilis brasii ad Cervisiam lupulat. cum eodem brasio conficiend. eidem A. deliberand. apud quandam Wharfam vocat. P. in Com. S. ad talia tempora, qualia idem A. præfat. H. adept. mitteret eodem. Idem A. solvend. præfat. H. pro quibuscumque 20 quarteriis brasii prædict. Anglice for every score of Malt, sic ut præfertur bargainat. & deliberand. 23 libras legalis mæsure Angliæ, in toto se attigen. ad decem & viginti libras, unde 200 l. per ipsum, A. solat.

solut. forent. prafat. H. ad manus ante Nundinas de S. Anglice before Sturbridge-Fair tunc. prox. sequen. Et in partem performationis barganiæ sue, præd. idem H. accliberavit eidem A. 125. quarter. merchandiabilis brassi, videl. apud W. præd. Idem tamen H. malitiose machinatus. & fraudulent. intend. ipsam A. callide decipere & defraudare pro resed. barganiæ præd. brassi præd. postea, scilicet, ult. die J. anno, &c. supradictæ, & vicesimo die O. prox. sequend. apud W. præd. deliberavit eidem A. 75 quarter. mali & corrupti brassi, al. parcelle præd. 200 quarteriarum brassi præd. ut prædict. mittitur barganizat. idem H. adtunc sciens eadem 75 quarter. brassi, al. parcel. eorund. 200 quarter. brassi esse insalubre & corrupt. idem. A. minime sciens corruptionem eorund. 75 quarter. brassi sic ut præfertur sibi deliberat, Brassium corrupt. ill. in Cervisiam lupulat. postea, scilicet, (tali die & anno) apud F. præd. pandoxat. fuisset, & convertebat Cervicq; lupulat. de eodem malo & corrupto Brasio sic pandoxat. & convers. insalubre & corrupt. devenit, cuius preteru, idem A. in vendendo & utterando, prædict. insalubrem Cervisiam lupulat. de malo Brasio præd. sic ut præfertur pandoxat. & confect. diversis subditis dicti Domini Regis nunc inhabitantibus in & prope F. præd. quibus idem A. præantea vendere & utterare bonam & salubrem Cervic. lupulat. consuevit, & solebat, non solum in magnum infamiam incidit, verum etiam idem A. ea de causa prædict. cervis. lupulat. de præd. malo & corrupto brasio, sic ut præfertur, per ipsum pandoxat. ad valentiam 120 l. totaliter perdidit & amisit, ad dampnum ipsius A. 200 l. & inde producit sectam, &c.

Thus, ex pede Herculem, by this you may guess at the whole body : only this observe by the way, at the
bottom

bottom of all their Declarations in the *Kings Bench*, they write thus ;

Pleg. de prosequend. } *Johannes Doe,*
 } *Richardus Roo.*

And then the Attorneys names for the Plaintiff and Defendant thus ;

} *T. R. cum quer.*
 } *S. D. cum defend.*

In this Court the Declaration being drawn by the Plaintiffs Clerk, the Defendants Clerk calleth for it, or else it is delivered unto him by the Plaintiffs Clerk, and he maketh a Copy of it, and hath the benefit of it ; and then the next Term after, or so soon as the Plaintiffs Clerk calleth for answer, the Defendants Clerk giveth him his Declaration again, and pleadeth to it, or else confesseth the Action, or lets it go by default, as he finds best for his Clyents advantage.

Also in this Court they ingross their Declarations in Parchment, in little pieces severally, and upon the back of them they enter their Continuances, from the Term within written, unto the Term that they confess the Action, or go to Issue, and that the Issue be entred upon Record : yet after issue is joyned, many times they defer the entring thereof till the Cause be tryed (which is otherwise in the Common Pleas) which is beneficial both to the Plaintiff and the Defendant, being they may in the mean time agree the business, and save that charges.

In

In their Declarations they seldome name of what place the Defendant is, unless it be upon a Bond or Indenture, where they observe the *Alias dictus, &c.*

And when they come to mention the Bond, Bill or Indenture, in an Action brought upon a Specialty, they have their *Profert hic in Curia* in the middle of their Declaration, (saying, after the Recital of the date of the Specialty, *Curieque nunc hic ostens.*) &c. Whereas in the Common Pleas they conclude their Declarations with a *Profert hic in Cur. scriptum præd. per quod debitum præd. in forma præd. testatur, cujus dat. est die & anno supradictis, &c.* in all Declarations upon Bill or Bond, &c.

SECT. V.

How to draw up an Issue in the Kings Bench.

HAVING shewn our Sollicitor how to proceed so far as Declaration in the Kings Bench, we will now shew him how to draw up his Issue after pleading, and so go to Tryal.

An Issue in Ejectione Firme.

ff. Memorand. quod alias, scilicet, Termino Pasche ultimo præterito coram Domino Rege apud Westm. ven. N. F. per T. S. Attorn. suum, & protulit hic in Cur. dicti Domini Regis tunc ibidem quandam billam suam versus N. S. & T. E. in Custod. Ma. r. Marresc. Domini Regis coram ipso Rege apud Westm. existente,
de

de placito transgressionis & Ejectionis Firmæ, & sunt
 plegii de prosequend. scilicet, Johannes Doo, &
 Richardus Roo. *Quæ* quidem billa sequitur in
 hec verba. S. H. N. F. queritur de N. S. &
 T. E. in Custod. Marr. Marisc. Domini Regis
 coram ipso Rege existen. pro eo, videlicet, quod cum
 H. F. gen. octavo die Maii, Anno Regni Domini
 Caroli secundi nunc Regis Angliæ, &c. duodecimo,
 apud L. in Comitatu prædicto, dimisit, concessit & ad
 firmam tradidit præfato N. F. quatuor messuagia,
 ducentas acras terræ, triginta acras prati, centum
 acras pasture, viginti acras bosci, & sexaginta acras
 jamprorum & brueræ, cum pertin. scituat, jacen.
 & existen. in L. M. D. & T. in Com. præd. Ha-
 bend. & tenend. tenementa præd. cum pertin. præd.
 N. E. à festo Annunciationis beate Mariæ Virginis
 tunc ult. præterito, pro & durante pleno fine & Ter-
 mino septem Annorum extunc proxime sequentium
 & plenarie complendorum & finiendorum: virtute
 cujus quidem dimissionis, idem N. E. in tenementa
 prædicta cum pertinen. intravit, & fuit inde posses-
 sionat. quousque prædicti N. S. & T. E. postea,
 scilicet, duodecimo die Maii anno supradicto, vi &
 Armis, &c. in tenementa præd. cum pertin. intra-
 verunt, & ipsum N. E. à firma sua præd. inde
 (Termino suo prædicto nondum finito) ejecerunt, ex-
 pulerunt & amoverunt, ipsumque N. E. à posses-
 sione sua inde extratenuerunt, & adhuc extrateneant,
 & alia enormia ei intulerunt, ad grave dampnum ip-
 sus N. E. & contra pacem Domini Regis nunc, &c.
 Et inde producit scctam, &c. Et modo ad hunc
 diem, scilicet, die Veneris prox. post Crastinum Sanctæ
 Trinitatis, isto eodem Termino, usque quem diem
 prædicti N. S. & T. E. habuerunt licentiam ad bil-
 lam præd. interloquend. & tunc ad respondend. &c.
 coram Domino Rege apud Westm. venit tam præ-
 dictus

dictus N. E. per Attorn. suum predictum, quam predicti N. S. & T. E. per R. T. Attorn. suum, & idem N. S. & T. E. defend. vim. & iniuriam, quando, &c. Et aiunt quod ipsi non sunt inde culpabiles, & de hoc ponunt se super patriam; & præd. N. E. similiter, &c. Ideo ven. inde Jur. coram Domino Rege apud Westm. die Martis prox. post octabis Sanctæ Trinitatis, per quos, &c. Et qui nec, &c. Ad Recog. &c. Quia tam, &c. Idem dies dat. est partibus predictis ibidem, &c.

When you have Issue joyned, and intend to proceed to Tryal, whether it be in the City, or a Tryal at Westminster, upon an Issue laid in the County of Middlesex, or for the Countrey Assizes, you must make out your *Venire Facias* to the Sheriff of the City or Countrey where your Action is laid, to return you a Jury. The Form of a *Venire Facias* is thus.

A Venire Facias to Summon a Jury in the Kings Bench,

Carolus secundus, &c. Vic. S. salutem. Præcipimus tibi quod *Venire facias* coram nobis apud Westm. die, &c. Duodecem liberos & legales homines de visa. de J. in Com. tuo, quorum quilibet habeat viginti libras terre, tenementor. vel reddito per annum ad minus, per quos rei veritas melius scire poterit, & qui nec H. S. quer. nec J. S. aliqua affinitate attingunt, ad faciend. quandam Jur. inter partes præd. de placito transgr. super casum, quia tam idem J. quam prædict. H. inter quos inde contentio est, posuerunt se inde in Jur. ill. Et habeas ibi nomina Jur. & hoc breve. Telle, &c.

If the Defendant be an *Alien*, then you must have a Jury *de medietate lingue*; one half English, the other half *Aliens*; then you must have this clause in the Writ.

A Venire for a party-Jury.

Quorum una medietas sit de indegenis, altera vero medietas de Aliegenis.

If you are for the Defendant, and will bring a cause to tryal by Proviso, when the Plaintiff will not proceed, your Writ runs thus.

Ven. Fa. cum Proviso

After you come to in *Jur. ill.* say, *proviso semper quod si duo brevia inde tibi venerint, unum tantum illorum Exequaris return.*

If your cause be in *London*, then make your Writ *de visn. Parochiæ beatæ de Mariæ arcubus in Warda de Cheape, &c.*

Upon this Writ of *Venire* the Sheriff will return you a Jury in a pannel annexed to the Writ: then you are to make a Writ of *Distringas Jur.* wherein you are to insert the names and additions of all the Jurors returned upon your *Venire facias*. The form of the *Distringas* is thus.

Distringas Jur. in London.

Carolus secundus, &c. Vic. I. salutem. Præcipimus vobis quod Distringa. H. D. C. E. F. G. (here reciting the Jurors names) Jur. suum in cur. nostrâ coram nobis, inter I. H. quer. & F. G. per omnes terras & catalla sua in ballivâ vestra, ita quod nec ipsi nec aliquis per ipsos ea man. appon. donec aliud à nobis inde habueritis præcept.

&

& quod de Exit. eorundem nobis respond. Ita quod habe-
atiz corpora eorum coram nobis apud Westm. die, &c. vel
coram dilect. & fideli nostro, R. H. Mil. Capital. Justic.
nostro ad placita in curia nostra coram nobis tenend. as-
sign. si prius die, &c. apud Guild-hall London, per
formam Statuti in hujusmodi casu nuper edit. & provis.
venerit, ad faciend. quandam Jur. inter partes præd. de
placito, &c. & ad audiend. Judic. suum de plur. defalt.
Et habeatis ibi tunc hoc breve. Teste, &c.

If the Distringas be in Middlesex, then your Writ
must be si prius, &c. apud Westm. præd. in magna
Aula placitorum ibidem.

If your Distringas be in any other County for a tryal
at the Assizes, it must have this alteration, vel coram
Justiciariis nostris ad Assizas in com. tuo tenend. Assign.
si prius die Jovis, &c. apud castrum W. in com. tuo, per
formam Statuti in hujusmodi casu nuper edit. & provis.
venerint, ad faciend. &c. as in the former.

A Distringas Jur. cum decem tales.

II. Carolus Secundus, &c. as in the former Writ, till
you come to ad audiend. Judic. suum de plur. defalt.
then add, Præcipimus etiam tibi quod decem tam probos
quam alios liberos homines de visn. de F. in com. tuo, quo-
rum quilibet habeat viginti librat. terr. tenement. vel red-
dit. per annum ad minus, neutri parti suspect. in Jur. ill.
pon. Et eos habeas coram nobis ad præfat. diem, ad faci-
end. Jur. præd. simul. cum aliis Jur. præd. in forma præd.
Ita quod Jurat. ill. ad diem illum pro defectu Jur. non
remanen. inde capiend. Et habeas ibi nomina eorum quos
de novo apposueris, & hoc breve, Teste, &c.

A *Distringas* where some of the Jurors are withdrawn out of the Pannel.

Carolus, &c. (ut supra) Præcipimus etiam tibi quod amotis A. B. & C. D. & loco eorum appon. decem tam mil. quam al. liberos & legales homines de v'sn. de F. in com. tuo neutri parti susp. Et. in Jur. illam pon. Et eos habeas coram nobis ad præsat. diem, ad faciend. Jur. præd. simul cum aliis Jur. in forma prædicta. Ita quod, &c. ut supra.

The *Distringas Jur.* being made and sealed, you must likewise get the Sheriff to return it, and then having your Record also ingrossed and sealed, you are ready for tryal; only preparing breviats to instruct your Counsel well; and provide your Witnesses ready, for whom you ought to have a *Subpœna*; the form whereof follows.

Carolus, &c. A. B. C. D. salutem. Præcipimus vobis quod omnibus & singulis negotiis & excusationibus quibuscunque cessan. in propriis personis vestris sitis coram Justic. vestris ad Assizas in Com. S. capie. ad. assign. die Jovis, &c. apud, &c. ad testificand. ea omnia & singula quæ sciveritis in quadam actione in curia nostra, coram nobis jam. penden. indeterminat. inter I. S. Gen. quer. & L. M. Defend. de placito transgr. & ad diem illum per. Jur. Patriæ triand. & hoc nullatenus onittas, sub pœna centum librarum. Teste, &c.

If the Tryal be at Westminster, then the Writ runs apud Westm. in Magna Aula placitorum ibidem: if in Lond. then coram ailect. & fidei nostro R. H. Mil. capital. Justic. nostro, ad placita in curia nostra coram nobis tenend. assign. apud Guild-hall London die, &c. ad testificand. &c. ut supra.

In the proceedings in the Kings Bench by Bill, when the Plaintiff and Defendant are at Issue, the
De-

Defendants Clerk hath the benefit, as he had before, of copying the Declaration; so he hath of making the the copy of the Issue for the Defendant: but in the Common Pleas the Plaintiffs Attorney hath all the benefit of the Defendants copies.

If there be special pleading in any action by the Plaintiff or the Defendant, which either comes to issue, or that there be a Demurrer, then they carry the whole Book to the Clerk of the Papers, who giveth a Rule to the Defendant, in the Margine of the Book, to joyn in Issue, or in Demurrer; and he maketh up the Books, and is paid eight pence a sheet for them: otherwise it is in the Common-Pleas, for there the Plaintiffs Attorney gets that profit.

The Clerks of the Office are to account with the Master of the Office, (who is the Secondary) for all Writs or Entries, &c. of the Term proceeding:

SECT. VI.

Of proceeding after Verdict, to Judgement and Execution.

AFTER Verdict obtained at a tryal, you are to call for a return of the *Postea*, from the Clerk of the Assize, the Term following; or in London or *Middlesex* the same Term: only four daies are allowed for the Defendant to move in arrest of Judgement; after which you must get the Secondary to sign costs, and then every Clerk enters up his own Judgements himself, and maketh out his Executions, either a *Capias ad satisfaciend.* against the body, a *fieri facias* against the goods, or an *Elegit* against the lands. But if you

once charge the body in Execution, you can have no Remedy against the Goods or Lands.

A Capias ad satisfaciend. against the body in Debt.

H. Carolus, Secundus, &c. Vic. S. salutem. Precipimus tibi quod capias A. B. si invent. fuerit in balliva tua, & eum salvo custod. ita quod habeas corpus ejus coram nobis apud Westm. die, &c. ad satisfaciend. de 20 libris de debito, necnon 2 s. 8 d. pro dampnis suis que sustinuit, tam occasione detent. debiti illius, quam pro mis. & custag. suis per ipsum circa sectam suam in hac parte apposit. unde convict. est, sicut nobis constat de Record. Et habeas ibi tunc hoc breve. Teste, &c.

If a *Superfedeas* hath been allowed upon a Writ of *Error*, and non prof. be thereupon, then say (after de Record.) *breve nostro de Superfed. brevi de Errori vobis vel tibi inde contrarium direct. in aliquo non obstan. Et habeas, &c.*

An Execution against the body in Trespass.

H. Carolus, &c. ad satisfaciend. A. B. de 50 libris pro dampnis suis que sustin. tam occasione cujusdam transgr. eidem A. per præfat. C. nuper illat. quam pro mis. & custag. suis per ipsum circa sectam suam, in hac parte apposit. unde convict. est, sicut nobis constat de Record. Et habeas, &c.

A Ca. Sa. in Trespass on the Case upon an Assumpsit.

H. Carolus &c. ad satisfaciend. A. B. de 8 l. pro dampnis suis que sustinuit tum occasione non performance cujusdam promissionis & Assumptionis eidem A. per prædict. D. nuper fact. quam pro mis. & custag. suis, &c.

An Execution for Costs against the Plaintiff, upon a Non-suit.

Carolus Secundus, &c. Vic. B. salutem, &c. Ad satisfaciend. F. W. juxta formam statuti in hujusmodi casu inde nuper edit. & provis. de 4 l. pro mis. & custag. suis in quadam actione in Curia nostra coram nobis versus ipsum F. ad sect. præd. R. de placito transf. super casum, adjudicat. unde idem R. postmodum actionem ill. non est prosecut. & unde idem R. convict. est, sicut nobis constat de Record. & habeas, &c.

The same after a Verdict.

Ad satisfaciend. A. B. juxta formam Statuti inde nuper edit. & provis. de 4 libris eidem A. pro mis. & custag. suis, per ipsum circa defensionem suam, in quadam actione debiti ad sect. præd. F. in Curia præd. adjudicat. Et habeas, &c.

An Execution against the Bail in Debt.

Carolus, &c. Præcipimus tibi quod capias T. D. de &c. & L. W. de, &c. Manucap. R. S. si, &c. Ad satisfaciend. N. T. de quinquaginta libris de debito, necnon de 20 s. pro dampnis, &c. Unde idem R. convict. est, sicut nobis constat de Record: Et unde in Cur. nostra coram nobis apud W. considerat. est, quod præd. N. habeat executionem versus præfat. T. & C. pro debit. & dampnis præd. juxta vim, formam & effectum cujusdam Recog. per ipsos T. & C. in Curia nostra coram nobis, pro præfat. R. cognit. Et habeas, &c.

A Cap. ad satisfaciend. for several Damages in
Trespas.

Carolus secundus, &c. Vic. S. &c. Capias W. S. nuper de, &c. & I. S. nuper de, &c. ad satisfaciend. R. D. duodecem denar. pro dampnis suis, quæ habuit occasione captionis & abauktionis cuiusdam equi ejusdem R. Necnon præd. I. S. ad satisfaciend. præfat. R. de septem solidis pro dampnis suis, quæ habuit occasione captionis & abauktionis quatuor ovium ejusdem R. Et etiam eosdem W. & I. ad satisfaciend. idem R. de quatuor libris, quæ eidem R. in Curia nostra, coram nobis apud Westm. adjudicat. fuer. pro mis. & custag. suis occasione transgr. præd. eidem R. per præfat. W. & I. & armis, & contra pacem nostram, apud H. in com. tuo illat. unde convicti. sunt, sicut nobis constat de Record. Et habeas, &c.

Thus have I given you several examples of Executions against the Body : In the next place take also some patterns of Writs against the Goods.

A Fieri Facias in Debt.

Carolus secundus, &c. Vic. S. salutem. Præcipimus tibi quod de bonis & catall. R. S. (alias dictus, &c. if it be upon Bond) in balliva tua, fieri facias centum libras de debito, necnon 20 s. pro dampnis, quæ C. D. nuper in Curia nostra, coram nobis, versus præfat. R. S. recuperavit, tam occasione detentionis debiti illius, quam pro mis. & custag. suis per ipsum circa sectam suam in hac parte apposit. unde convict. est, sicut nobis constat. de Record. & denar. ill. habeas coram nobis apud Westm. die, &c. ad reddend. præfat. C. D. de debito & dampnis prædictis. Et habeas ibi tunc hoc breve. Teste, &c.

A Fieri

A Fieri facias against an Administrator.

Carolus, &c. Præcipimus tibi quod de bonis & cattallis quæ fuer. A. B. defunct. tempore mortis sue in manibus & custod. C.D. vid. Administrator, &c. quæ fuerat ejusdem A. B. tempore mortis sue Administrand. in balliva sua, fieri facias octoginta libras de dampnis R. T. nuper in Curia nostra, coram nobis, versus eum recuperavit, tam occasione non performance cujusdam promissionis & assumptionis eidem R. per præfat. A. B. in vita sua nuper fact. quam pro mis. & custag. suis, & sicut nobis constat de Record. si tant. in manibus suis habeat; & si tant. in manibus suis non habeat, tunc 6 l. de bonis & cattallis dicti C.D. vid. propriis. Et denar. illos habeas coram nobis apud Westm. die, &c. Ad reddend. præfat. R. pro dampnis præd. Et habeas, &c.

A Fieri Facias upon Judgement, affirmed upon a Writ of Error out of the Common Pleas.

Carolus secundus, &c. Vic. S. salutem. Præcipimus tibi quod de bonis S. B. in balliva tua Fieri facias centum libras de debito, necnon sex libras pro dampnis, quæ N. O. nuper Cur. nostra coram O. B. Mil. & aliis sociis suis Justic. nostris de Banco, versus eum recuperavit, tam occasione detent. &c. unde convict. est, sicut per inspectionem record. & process. inde quæ coram nobis certis de causis venit. fecimus nobis constat. de Record. quam etiam de quinque libris, juxta formam Statuti inde nuper edit. & provis. pro dampnis, mis. & Custagiis suis, quæ habuit occasione dilationis Executionis Judicii præd. prætextu prosecutionis cujusdam brevis nostri de Errone, per prædict. S. versus præfat. N. in Cur. nostra coram nobis prosecut. unde idem Judicium in Curia nostra, coram nobis, postmodum affirmat. fuit, sicut

sicut nobis constat de Record. Et denar. ill. habeas coram,
&c. in Oñlab. &c. Tasse,

A Fieri facias against a Plaintiff for Costs to the Defendant.

Carolus Secundus, &c. Vic. &c. Præcipimus tibi quod de bonis & Catal. A. B. in balliva tua, Fieri facias quatuor libras, quæ R. T. in Curia nostra, coram nobis adjudicat. fuer. pro mis. & custag. suis circa defensionem suam, in quadam actione transg. super casum, ad sect. prædict. A. juxta formam Statuti inde nuper edit. & provis. Et denar. illos habeas coram nobis apud Westm. die, &c. ad reddend. præfat. R. pro mis. & custag. suis prædictis. Et habeas, &c. Tiste, &c.

A Testatum Fieri facias against an Administrator upon a promise.

Carolus secundus, &c. Vic. S. salutem. Cum Vic. nostris L. nuper præceperimus, quod de bonis & Catall. quæ fuer. A. B. defunct. tempore mortis sue in manibus A. vid. Administrat. &c. quæ fuer. ejusdem B. tempore mortis sue in balliva sua fieri facerent, octoginta & sex libras de dampno, quæ R. T. in Cur. nostra, coram nobis, versus eum recuperavit. tam occasione non performat. cujusdam promissionis eidem R. per præfat. B. in vita sua fact. quam pro mis. & custagiis suis, per ipsum circa sectam suam in hac parte apposit. unde convict. est, sicut nobis constat de Record. si tant. in manibus suis habeat; & si tant. in manibus suis non habeat, tunc præd. sex libras de bonis & catall. dict. A. propriis. Et denar. ill. habeant, &c. dictique Vic. nostri L. ad diem ill. nobis return. quod præd. A. null. habet
bon

bona seu catal. in balliva sua unde dampna præd. aut aliquem inde parcel. fieri fac. possunt, super quo ex parte præd. R. in curia nostra coram nobis sufficienter testatum est quod præd. A sufficient. habet bon. & catal. in balliva tua, unde dampna præd. fieri fac. possis: Ideo tibi præcipimus quod de bonis & catal. præd. A. in balliva tua in manibus præd. Anne Administrand. fieri facias præd. Octoginta & sex libras de dampnis præd. si tant. &c. & si non, &c. tunc præd. sex libras de bonis & catal. præd. A. prop. Et denar. illos habeas, &c. die, &c. ad reddend. præfat. R. pro dampnis præd. in forma præd. Et habeas, &c.

A Fieri Facias against two Executors where one dyed before satisfaction.

Carolus Secundus, &c. Vic. Buck. salutem. Præcipimus tibi quod de bonis & catallis quæ fuer. I. D. defunct. nuper dict. &c. tempore mortis sue in manibus & custod. I. L. executor. test. & ultime voluntat. præd. I. D. simul cum T. A. gen. mo. o etiam defunct. coexecutorum cum I. L. præd. Testamenti & ult. voluntat. præd. I. D. Administrand. in balliva vestra, fieri facias decem libras de debito, & sexdecem solidos pro dampnis quæ F. G. nuper in curia nostra coram nobis apud Westm. recuperavit versus præd. I. L. & T. A. in vita ipsius T. sustin. &c. (ut in aliis usque) unde idem I. L. simul cum præd. T. convict. est, &c.

A Fieri Fac. for residue of a Debt when part is levied.

Carolus, &c. Vic. S. salutem. Præcipimus tibi quod de bonis & catallis I. L. in balliva tua, fieri facias decem Libras resid. Viginti librarum de debito, & 40 s. pro dampnis quæ T. R. nuper in Cur. nostra coram nobis versus cum recuperavit, tam occasione detentionis debiti illius, quam pro mis. & custag. suis (ut in aliis, as in others, &c.

Having

Having thus shewn you some patterns of Executions against the body and goods, I shall give you some also against the Lands: where note, that if once you take Execution against the Lands, and it be Executed, returned and filed, you can never afterwards meddle with the body or goods for that Debt.

An Elegit in Debt.

Carolus Secundus, &c. Vic. Suffex salutem. Cum A.B. nuper in curia nostra coram nobis apud Westm. per bill. sive brevi nostro, ac per Judic. iustam cur. recuperaverit versus T. R. viginti libras de debito, necnon quadraginta solidos pro dampnis suis quæ sustinuit, tam occasione detentionis debiti illius, quam pro mis. & custag. suis per ipsum, circa sectam suam in hac parte apposit. unde convict. est. sicut nobis constat de Record. posteaque præd. A. venit in curia nostra coram nobis, & Elegit sibi liberari omnia bona & catalla præd. T. præter boves & Affros de caruca sua, & similiter medietat. omnium & singulor. terr. & tenement. præd. T. in balliva tua, juxta formam Statuti inde nuper edit. & provis. quousque debit. & dampna præd. inde plenar. levaverit: Ideo tibi præcipimus, quod omnia bona & catalla præd. T. in balliva tua, præter boves & Affros de Caruca sua, & similiter medietat. omnium terr. & tenement. præd. T. in balliva tua, de quibus præd. T. primo die Jan. anno Regni nostri sexto decimo, vel unquam postea fuit seist, sine dilatione liberari facias per rationabil. pretium & extent. tenend. sibi bon. & catall. præd. ut bona & catalla sua propria, ac etiam tenend. medietat. ter. & tenement. præd. ut liberum Tenementum suum sibi & assign. suis, juxta formam Statuti præd. quousq; debit. & dampna præd. inde levaverit, & qualiter hoc breve nostrum fuer. execut. nobis apud Westm. die, &c. constare facias sub sigillo tuo, & sigillis eorum per quorum sac. extent. & appreciation. ill. feceris. Et habeas, &c.

An

An Elegit in Debt for a Residue.

Carolus, &c. Vic. &c. Cum B. &c. posteaque præd. B. ven. in Cur. nostra coram nobis, & Elegit sibi liberari omnia bona & Catalla præd. C. in balliva tua, præter boves & Affros de Caruca sua, & similiter Medietat. omnium ter. & tenementorum suorum in balliva tua, juxta formam Statuti in hujusmodi casu nuper edit. & provis. quousque viginti libras resid. debiti & dampn. præd. inde plenar. levaverit: Ideo tibi præcipimus, &c. vel unquam postea fuit seisit, per rationabil. pretium & extent. præfat. B. liberari facias tenend. &c. juxta formam Statuti inde nuper edit. & provis. quousque 20 libras præd. resid. debiti & dampn. præd. &c. Et qualiter, &c. nobis, &c. (ut supra, &c.) Et habeas, &c.

An Elegit against the Bail in Debt.

Carolus, &c. Vic. S. salutem. Cum J. K. nuper in Cur. nostra coram nobis apud Westm. per billam si-ve brevi nostro, ac per Judic. ejusdem Curie recuperavit versus J. S. alias dictus, &c. quadraginta libras de debito, necnon, &c. pro dampn. suis, quæ sustinuit tam occasione, &c. unde convict. est, sicut nobis constat. de Recordo; & unde in eadem Curia nostra, coram nobis apud Westm. considerat. est, quod præd. J. K. haberet executionem versus F. [de, &c. & R. L. de, &c. manucap. præd. J. S. de debit. & dampnis præd. juxta vim, formam & effectum cujusdam Recogn. per ipsos in Curia nostra, coram nobis, pro præfat. J. K. cognit. Posteaque præd. J. K. venit in eadem Curia nostra, coram nobis, & Elegit sibi liberari omnia bona & Catal. præd. F. & R. in balliva tua, præter boves & Affros de Carucis suis, ac similiter medietat.

dictat. omnium terr. & Tenement. eorund. F. & R. in balliva tua, per rationabil. precium & extent. tenend. sibi & Assign. suis, juxta formam Statuti in hujusmodi casu inde nuper edit. & provis. quousque, &c. (ut in aliis, &c.)

In an Action of Ejectment where the Plaintiff recovers, there he recovers the possession of the thing sued for: and therefore having before shewed you how to Declare and make up an Issue in that Case, I shall likewise shew you how to make out Execution for the Possession.

A Writ of Habere facias possessionem.

Carolus, &c. salutem. Cum C. G. nuper in Curia nostra, coram nobis apud Westm. per billam sive brevi nostram, ac per Judic. ejusdem Cur. recuperavit versus H. J. Terminum suum adhuc ventur. de & in duobus Mess. viginti acris terræ, &c. cum pertin. scituat, &c. que quidam T. R. primo die, &c. anno &c. (as in the Declaration) eidem C. demisit ad terminum annorum qui nondum præterit, videl. à vicesimo die, &c. usque finem & terminum septem annorum extunc prox. sequen. & plenar. complend. & finierend; Virtute cujus quidem dimissionis idem C. in præd. duo M^{ss}. &c. cum pertin. intravit, & fuit inde possessionat. quousque præd. H. postea, scilicet, eodem primo die, &c. anno, &c. præd. vi & armis, in prædictis duo M^{ss}. &c. cum pertin. in & super possessionem prædict. C. inde intravit, & ipsum C. à firma sua prædicta Termino suo prædict. nondum finit. eiecit, expulit, & amovit: Ideo tibi præcipimus quod præfat. C. possessionem suam termini sui prædicti adhuc ventur. de & in præd. duobus Mess. & viginti acris terræ cum pertin. habere facias. Et qualiter hoc breve nostrum fueris execut. nobis apud Westm. die, &c. constare facias,

ias. Et habeas ibi tunc hoc breve. Teste, &c.

Thus have we guided our Solicitor through the usual Practice of the Kings Bench, from the leading Process to Execution.

There is also a Proceeding in the Kings Bench by Original Writ, and so to the Outlawry, in all Cases except these four, *viz.* Debt, Detinue, Covenant, and Account: In all Actions of Trespas, Case, Assault, &c. you may Outlaw in the Kings Bench as well as in the Common Pleas; and they have their Philizers Office for every County, and then if the Defendant appears upon the Exigent, they deliver their Declarations in the same form as the Common Pleas, and the Plaintiffs Attorney hath the benefit of them, and so consequently of the Copies of the Issues.

But if a poor man be Outlawed here, he is undone: for besides the excessive charge of Reversing it, he must be brought into the Court in person to Reverse it, though he be never so far from London; and must procure good Bail.

There is likewise the Crown-side belonging to this Court, for which there is the Crown-Office; the Master of it is called the Clerk of the Crown: here may be brought all manner of Indictments for Treason, Murder, Felony, &c. and Informations for Riots, and all Offences upon penal Statutes; and from this Office issues out all *Certioraries* to remove Indictments out of all Sessions in City or Countrey; and all Convicts at Assizes or Sessions certified. Here are proper Clerks belonging to this Office, who dispatch the business for the several Counties, attending this service only.

We have now led our Solicitor through the Practice of the High Court of Chancery, the Common Pleas, and Kings Bench; so that now for a

time

time we will leave the Hall, and ascend up Stairs into the Exchequer-Chamber: only by the way cast your eyes on the Table of Fees in the Kings Bench.

SECT. VII.

Fees of the Kings Bench:

A Note of Fees due, and time out of mind used to be paid to the Prothonotaries, or chief Clerks of the Kings Bench, and to their Clerks, as the same was presented upon Oath by vertue of a Commission in April, 1630. by 29 Attorneys of the same Court, and hitherto taken.

WRITS.

FOr a Latitat,
Superfed.
Exigent in Appeal,
Distring. in Attaint,
Habeas Corpus,
Certiorari,
Procedend.
Elegit,
Subpœna,
Withernam,
Retorn. bend.
Second deliverance,
Restitucon.
Scire facias,
Diminucon.
Libello bend.

5 s. 1 d.

Prohibicon,
Consultacon.
Proprietate probanda,
Distr. in detinue,
Inquir. de valore,
Resum.
Reattachmt.
Ve: fa. defend. in audit aque-
rela,
Here: fac. seiam. & posses-
sion.
Respons. in attaint,
Vend. expon.
Bre. Epo.
Mittimus.

All these are accountable for to the Prothonotaries,
viz. For every one, two shillings, out of which they
allow the Clerks for writing, four pence.

Venire fac.

Distring. Jur.

Alf. & plur. cap.

Ca. sa.

Inquir. de Dais.

*Habeas corpus sur cepti
corpus.*

Averm. versus vic.

Fieri fac.

Testat. Fi. fac. & ca. sa.

Dist. nuper vic.

Non omittas.

For every of these besides the Seal, 6 d. And for
every *Deliberat. de recordo*, 4 d. And for the *Jura* of the
Dist. of Ni. pri. 4 d. But all these have been alwaies
to the Prothonotaries Clerks, and are not accounted
for to the Prothonotaries.

In every Action wherein the Plaintiff recovereth
damages to the value of 13 l. 6 s. 8 d. he payeth 12 d.
in the pound for damage clear, when the Judgement
is signed.

Kings-Bench Fees for Entries.

For every Deed how short soever,	2 s.
For every Action of Trespafs,	1 s.
For every Not guilty,	1 s.
For every Justification in Trespafs.	2 s.
For every Replication,	1 s. 8 d.
For every Action of the Case not above 3 sheets,	2 s.
For every general Issue to it,	1 s.
For every <i>Ejectione firme</i> ,	2 s.
For every Declaration in Appeal,	2 s.
For every general Issue therein,	2 s.
For every <i>Recogn. sur. H. corp.</i> for every Defendant severally,	2 s.
	For

For every Deposition upon all Prohibitions,	2 s.
For every Judgement by Circumstant.	4 s.
Out of which the Clerk is allowed,	8 d.
For every other Judgement,	2 s.
Whereof the Clerk is allowed.	4 d.
For every dismissal,	2 s.
For every commitment in Execution,	2 s.
For every satisfaction,	3 s.
For every appearance recorded,	2 s.
For every <i>Non prof.</i>	2 s.
For every Action of Debt, Detinue or Trespass,	1 s.
For every general Issue therein,	1 s.
For every condition performed,	2 s.
For every Replication to it,	1 s.
For a Writing denyed, and keeping of the Writing,	1 s.
For every Justification in Battery,	2 s.
For every <i>Audita querela</i> , how short soever,	2 s.
For every special Imparlanee,	2 s.
For every general Imparlanee upon the Plea-Roll,	1 s.
For every default upon Record,	2 s.
For a suggestion upon a Prohibition, how short soever,	2 s.
For every Recognizance to it,	2 s.
For every Writ of <i>Error</i> how short soever,	3 s. 4 d.
For entring the <i>Errors</i> ,	2 s.
For entring in <i>Nulla est errat.</i>	2 s.
For every Diminution,	2 s.
For Abatement of a Writ of <i>Error</i> , and license to sue a new one,	2 s.
For entring of the same,	2 s.
For every Recognizance single, or with condition,	2 s.
For every Inrolment whatsoever, longer than three sheets.	6 s. 8 d.
	After

in the Kings Bench.

After the rate for a Roll on both sides, 6 s. 8 d.
 For half a Roll, 3 s. 4 d.
 For every Bail of Recognizance, 2 s. 6 d.

Kings Bench Fees of Clerks and Attornies

FOR their fee in every cause for every Term, 3 s. 4 d.
 For their fees at every *Ni. pri.* and Inquiry of damages, 3 s. 4 d.
 For their fees in every Appeal and Affize, every Term, 6 s. 8 d.
 For drawing every Declaration, not exceeding a sheet, 1 s.
 For every sheet above one, 8 d.
 For drawing every action on the case and covenant, how short soever, 3 s. 4 d.
 For drawing every ejectment, 2 s.
 For every sheet ingrossed in Parchment, 4 s.
 For drawing a Surmise upon a Prohibition, every sheet, 1 s.
 For drawing special Pleadings, every sheet, 8 d.
 For copies of Declarations, Pleas, or other things, every sheet, 4 d.
 For continuing every cause every Term, 4 d.
 For entring all things above three sheets, every sheet, 8 d.
 For every Judgement by circumstan. 5 s.
 For marking every Bail, 4 d.

For making every Bill of Middlesex, *distring. nuper vic. and Hecorp. sur corpus per preceptum* thereupon, 8 d.

For making every *Hecorp. ad fac. hecorp. cum privileg. certiorari, procedend. elegit. et habere fac. possessionem,*

tionem, besides 4 d allowed by the Prothonotary, 1 s. 8 d
 For every sheet in a VVrit of Inquiry, Prohibition,
 Consultation &c. 4 d.
 For entring of every *Scire fac.* 1 s.

Fees received by the Secondary.

For taking the acknowledgement of a Deed in Court, 1 s
 For signing every Judgment by confession, *nihil dicer, verdict & demurrer.*
 Also for acknowledgement of every Deed, for every Judgment pronounced in open Court, } 1 s
 every rule to alter a Visne, for every Rule for a Prohibition, Consultation, Attachment, &c. }
 He receiveth for the poors Box.
 For allowance of a writ of Error, *coram nob. residen.* 2 s
 Whereof to the Box, 1 s
 For an allowance of an *Audita querela*, 2 s
 Whereof to the Box, 1 s

Kings Bench fees.

For every common Bail, 1 s. 2 d
 For a special Bail upon *A Heas corpus*, *Certiorari*, or attachment, 4 s. 1 d

Fees received by the Secondary for the Judges.

For every *Habeas corp. ad fac. & recipiend.* 4 s
 For every *Procedendo*, 4 s
 For every *Certiorari* to remove a forren attachment, 4 s
 For a *Procedendo* thereupon, 4 s
 For

in the Kings Bench.

355

For every *Habeas corp. cum privilegio*, 3 s
Out of every *Latitat* they have 1 d.

Fees received by the Judges Clerks.

For every Warrant for a *Habeas corp.* or any thing
to which the Judge putteth his hand in the Term-
time, 1 s
And in the Vacation, 2 s
For the acknowledgement of a Deed which he saith is
for his Master, 6 s. 8 d
And for his own Fee, 2 s
For taking the Deposition of VVitnesses upon a Sug-
gestion for a Prohibition, for every VVitnells, 6 s. 8 d
And for his own fee for every witness, 2 s

Fees paid the Clerk of the Papers.

For copying every special Plea, every sheet, 4 d
For making the Paper-book, either Issue or De-
murrer, every sheet, 8 d
For entering into his book every Record to be read in
court, 1 s
For entering into his book every cause, to hear coun-
sel on both sides, 1 s
For entering every Tryal at Bar, 1 s

The keeper of the Postea's

Hath for the receiving, marking, keeping, and de-
livery of every *Postea*, 4 d

The Keeper of the Files of Declarations

Hath for the filing, pying, and shewing the files of every Clerk, for every Term, 2s.

Fees paid to the Clerk of the Rules.

For entring every Rule, except general Rules for answer, 4d.

For a copy of every Rule, 4d.

For every general Rule for answer, being above three, 2s.

For every Rule given in court with a copy for a Prohibition, or Consultation, he taketh 8d. 12d. and the due is but 8d. which hath been taken not above 25 years.

For every Rule with a copy given in court the last day of a Term, he taketh 12d. whereas the due is but 8d. which hath been taken this two or three years.

For every copy of a Rule after the continuance day, he taketh 8d. whereas the due is but 4d. which hath been taken 2 or 3 years.

All such Affidavits as are read in court he claimeth this two years, or thereabouts, to have the keeping of them, and taketh for copies both of Plaintiff and Defendant at his own discretion, which formerly hath not been.

Dogget-maker.

THE Secondaries Clerk, for making and keeping the Remembrances of Entries, &c. hath of every Clerk every Term, 8 d.

Keepers of the Bails.

FOR entering the common Bails into Parchment-Rolls every Term, every Clerk of the Office giveth what he pleaseth.

Keepers of the Rolls of Writs.

FOR carrying the Rolls of the Writs to the Hall, and the Office, he hath of every Clerk every Term, what he pleaseth.

Fees paid to the Custos Brevium and his Clerks.

FOR every record of *Nisi prius* in a short Action of Trespass, 4 s. 6 d.

For every other Record, how short soever, 5 s.

For every full press of *Nisi pri.* or *Mittimus*, 6 s.

For every *Nisi prius* out of the Crown-side, 6 s. 8 d.

For every full press there, 6 s. 8 d.

For every *Nisi prius* upon an Indictment of Murder,

for every Name that pleadeth to Issue, 6 s. 8 d.

For every short Exemplification in Trespass 10 s.

For every Exemplification containing a large skin, 1 l.

For the like in the Crown-side, 2 l.

For every Exemplification in *Ejectione firme*, 13 s. 4 d.

For filing a Writ, being *Post diem* upon the Angl. 4 d.

For all *pt. Terminum* at any time after the first week

ended in the second Term, 1 s. 8 d.

For every Warrant of Attorney in Murder, 1 s.

For every Sheriffs Warrant,	8 d.
For every other VVarrant of Attorney,	4 d.
For every search for a Roll for ten years last past,	6 d.
For every search above ten years last past,	3 s. 4 d.
For search for Rolls for the six last Terms,	oo.
For search of every file of Declarations, Bails, Judicial and other VVrits after ten years,	1 s. 4 d.
For the copy of every sheet between party and par- ty,	4 d.
For a copy of a Deed inrolled, for every sheet.	8 d.
For a file of the <i>Angl.</i> for every Term after one,	4 d.
For the copies of every VVrit or appeal, every sheet,	8 d.

Fees now paid to the Custos brevium his Clerks.

For writing every <i>Nisi prius</i> or <i>Mittimus</i> , being but one press,	1 s. 6 d.
For every press more then one,	1 s.
For writing every Exemplification in Trespass or E- jectment,	3 s. 4 d.
For writing every large skin of Parchment Exempli- fied.	6 s. 8 d.

The Fees for writing every *Nisi prius* or *Mittimus* were uncertain until about Anno 2 *Jacobi*; and then it was ordered by the Judges that the Clerks should have for writing of the first press, 1 s. 6 d. and if more, then every other press, 12 d. and every full press to contain sixty lines.

Fees claimed by the Cryer and Porter.

As Cryer.

For calling a Jury,	2 s.
For every Oath given in Court,	4 d.
For taking a privy Verdict,	4 s.
For every Argument in Law,	2 s.
For every Wager of Law,	2 s.
For every admission to a Guardian,	6 d.
For a Bail taken at the Bar,	2 s.
For calling a Non-suit,	4 d.
For calling the Record,	1 s.
For calling a Default,	1 s.
When a Pardon is pleaded,	2 s.

As Porter.

For every Tryal at Bar,	5 s.
For every privy Verdict,	2 s.
For summoning the Wager-men,	3 s.
For a Bail taken at Bar,	2 s.
For a Record called,	6 d.
For a Default called,	1 d.
For a Pardon pleaded,	2 s.
For a discharge of a Rescous,	4 s.
For a Bail taken in Court,	6 d.

Of all these Fees mentioned and claimed by the Cryer and Porter, these following have been paid as due, during the time of our knowledge.

As Cryer.

For calling a Jury,	1 s.
For swearing every Witness,	4 d.
For a Wager of Law,	1 s.
For a Non-suit,	1 s.
For a default of a Record,	1 s.
For a Defecit de lege,	1 s.

As Porter.

For summoning the Wager-men,	3 s.
Also the Porter receiveth more for the Wager-men, where the Defendant waget his Law, or is ready to wage it,	1 s.

Fees received by the Clerk of the Errors immediately after the Statute of 27 Eliz.

For the Lord chief Justices fee for the allowance,	17 s. 4 d.
For the Receit,	5 s.
For the Return,	2 s.
For the Certificate of the first press,	6 s.
For writing the first press,	2 s.
For a Supersedeas, A A	2 s. 7 d.

These

These Fees amounting to 35 s. 3 d. were paid upon the allowance of the Writ, and for the Superfedeas.

For the certifying of the Record, for every press be-	
side the first,	6 s.
For writing every press after the first,	1 s.
For the Roll,	1 s.
For making <i>Non prof.</i> upon the Roll,	5 s.

Also immediately after the making of the Statute of Anno 3 Jac. the Fees taken for the Bail were as followeth, upon a Writ of Error.

To the Prothonotaries for the Recognizance,	2 s.
To the Judges Clerk,	2 s.

Fees upon a Writ of Error.

For making the Bail,	4 d.
For drawing and entring the Recognizance,	4 s.
Now, and for the space of thirty years last past, he hath taken upon the Receipt of every Writ of Error and Superfedeas, in a gross sum,	2 l. 6 s. 8 d.
Also for certifying every press besides the last,	6 s. 8 d.
For writing every press besides the first,	2 s.
For every Superfedeas besides the first, with the Seal,	9 s. 3 d.

These

These Fees last mentioned, were set down by Sir John Popham, late Lord chief Justice; Ex relatione Edi Page cler. Error. but we do not certifie it upon our knowledge.

Also he taketh for every Bail in a gross summe, 19 s. 4 d.
 For every VVrit of Error, *Tam in redditione iudicii, quam in adjudicatione executionis*, he taketh double Fees.

The Marshals Fees, as they were certified by Sir William Knowls Knight, sometimes Marshal of the Kings Bench.

Imprimis, for enlargement of every Prisoner, which is termed his Admission fee, 10 s.
 Also he demandeth of every prisoner upon his enlargement, a fine, for not wearing of Irons.
 For Execution, in every pound 3 d.
 For Actions, in every pound 1 d. ob.
 The Marshal taketh for every dismissal more then the former fee of ten shillings, 8 s. 8 d.
 The Deputy-marshal and Marshals-men, take for every prisoner that is committed in court, 5 s. 6 d.
 And for every prisoner committed from the Judges chamber, 2 s. 6 d.
 The Deputy-marshal taketh for the allowance of every Habeas corpus, 2 s. 6 d.

The Clerk of the Fines.

There was an Office invented and erected about 6 Jacobi, whereby is taken upon the filing of every Declaration in debt, where the debt is above 40 l. and not above a hundred Marks, 3 s. 4 d. and above a hundred Marks, and not above a hundred pounds, 5 s. and so after the same rate: and also in every action on the Case, and trespass for goods, where the damages are laid above forty pounds, the like rates; so that the plaintiff or defendant be not a person privileged, nor the defendant in *Custodia Maris*, whereas before 6 Jac. in all our memories, no such moneys were paid or demanded.

Fees for Tryals at Bar, taken by several Officers.

The Cryer for calling the Jury,	2 s.
For swearing every Witness,	4 d.
The Porter for keeping the Doors,	5 s.
The Cryer for a Non-suit,	2 s.
The Deputy-marshal,	2 s.
The Tipstaves or Marshals-men for a Verdict, <i>Seddend. curia</i> ,	8 s. 6 d.
If the Jury lie together all night,	17 s. 8 d.
The Judges Footcloath-men, 12 d. apiece,	4 s.
The Secondary receives for a Verdict in Court, 2 s. for a privy Verdict, 13 s. 4 d. which he saith is thus divided; viz. The Judge that taketh the Verdict, 6 s. 8 d. to the Secondary, 2 s. and the rest, being 4 s. 8 d. among the Officers that attend.	

Of

Of all the Fees mentioned, we present these following to be due.

To the Cryer for calling the Jury,	1 s.
For swearing every VVitness,	4 d.
For calling a Non-suit,	1 s.
To the Deputy-marshal,	2 s.
To the Porter for keeping the Doors,	1 s.
To the Secondary for taking a verdict in court,	2 s.
To him for a privy verdict,	13 s. 4 d.
And now they take no other fees then these last mentioned.	

We pay into the Crown-office for Estreating every amercement, 1 s.

Also there is paid to the Secondaries Clerk, by every one of the Prothonoraries Clerks, every Term that he faileth to bring in his Rolls within twenty four days next following after *Trinity*, *Michaelmas*, and *Hilary* Terms respectively, and within ten days next after *Easter-Term*, 12 d. whereas formerly they had time until the *Essoyn* day of the next Term to bring them in, without paying any fee.

Also there is paid to the Secondaries Clerk for the filing of every common Bail, after six days after every Term over and above the fee, 4 d.

The Table of which several payments last mentioned, is remaining in the King Bench Office.

Fees due and received by Philizers.

For every <i>Cap. Als. Plur. Exigt. Proclama. & Distring.</i> in <i>Trespas</i> ,	6 d.
For every <i>Exigent & Proclamation</i> in <i>Replevin</i> ,	6 d.
For	

For every Pone, Cap. Als. Plur. Testat. in Replevin,	6 d.
For every Superfed. upon the mean process afore- said,	2 s.
For every Cap. Als. Plur. Testat. and Exigt. in Truf. (<i>sup. casum</i> , Action on a Statute, <i>Rap. custodie Truf.</i> <i>contra formam ordinationis</i> , Ejectments, and such special Writs.	1 s.
For the Proclamation thereupon,	1 s.
For the <i>Distring.</i> thereupon,	1 s.
For every Cap. Als. & Plur. in appeal of <i>Mayhem</i> ,	1 s.
For every Cap. Als. & Plur. in an appeal of Rob- bery,	2 s.
For every Name in every Cap. Als. & Plur. in appeal of Murder,	2 s.
For every Proclamation in every appeal,	2 s.
For every general Cap. ult. & <i>delibatur de recordo</i> ,	10 d.
For every special Cap. ult. & <i>delibatur de recordo</i> ,	2 s. 4 d.
For every VVrit of <i>Withernam</i> , second deliverance, and return <i>Habend.</i> before <i>Avowry</i> ,	2 s.
For every <i>Venire facias</i> ,	6 d.
For every <i>Distring. Jur. delibat. de recordo</i> , & <i>jur.</i> <i>Nisi prius</i> ,	1 s. 2 d.
For every <i>Subpœna</i> upon issues by Original,	2 s.
For entry of Declarations in trespass by Original,	1 s.
For entering Not-guilty thereunto,	1 s.
For entering every Ejectment and Action upon the Case, not above three sheets,	2 s.
If longer, then for every sheet	8 d.
For every general Imparlanee,	4 d.
For every special Imparlanee,	2 s.
Copies of VVrits of Attaint before Judgement, per sheet,	8 d.

*Fees due upon Tryals at Guild-hall to the
Officers of the Court.*

TO the Clerk that reads the Record and Evidence,	1 s.
To the Associate,	1 s.
For every Default,	2 s. 4 d.
To the Cryer,	1 s.
For swearing every VVitnells,	4 d.
The Marshal,	2 s.
The Foot-cloath,	1 s.
The Green-cloath,	1 s. 6 d.
The Door-keeper,	1 s.
The Hall-keeper,	1 s.
The Jury-men,	8 d.
Over-men, every one,	4 d.
For summoning and keeping the Jury,	4 s. 6 d.
Lights,	1 s.
Bar-keeper,	1 s.
Return of the <i>Postea</i> ,	2 s.
Also the Associate taketh in every cause where the Plaintiffs Attorney is not present, and of every defendant which appeareth, and hath not his Attorney in Court, for a VVar- rant of Attorney,	4 s.



THE
SOLLICITOR
IN THE
Exchequer.

CHAP. XIV.

SECT. I.

*The Original of the Court of Exchequer, with
the several Officers thereof.*

WHen William the Conqueror had established himself here, by suppressing all those that made any head against him; he immediately caused the whole Realm to be surveyed by Shires and Hundreds severally, as well to understand the Woods, Pastures, Meadows, and Tillages thereof, as also
for

for the profit of Churches, Mills, Villains, and of all other commodities whatsoever: The Book of this Survey was by him called *Dooms-day-Book*, and is yet remaining in the Exchequer at *Westminster*. Thus saith *Lambard* in his *Archeion*: But others write, That this Book called *Dooms-day-Book*, was framed at the charge and in the days of *Edward the Confessor*; and that *William the Conqueror* caused it to be kept in the Exchequer, when he established this Court.

The Court of Exchequer was erected and framed by the Conqueror, for the order of his Revenues, after the name of his Exchequer in *Normandy*; though in the manner thereof it differed much from it: for his Exchequer in *Normandy* had not only the Government of the Revenues of the Duke there, but was also his chief Court for the distribution Justice amongst his Subjects, and so continued, until that *Lewis the Twelfth*, King of *France*, in the year of Christ 1499 converted it into a Court of Parliament, consisting of President and Counsellors, and established it at *Roan* in *Normandy*, where it now remaineth. But this his Exchequer at *Westminster*, had then the only Rule and Governance of his Demesnes and Receipts; the administration of common Justice still remaining in the other High-courts of the King, as it was before the coming of *William of Normandy* hither.

But this Court of Exchequer is, as it stands now established, a Court both of Equity and Common Law: having a Court of Equity, where the Proceeding is by English Bill and Answer, as it is in the High-court of Chancery; and an Office of Pleas, holding Common Pleas; after the course of the Common Law.

This Court is governed by the Lord high Treasurer, Chancellor, Under-treasurer.

The Lord chief Baron, and three other Barons of the Coif, for the hearing and determining all causes in law or equity.

There also sits in the Court another called the Puisne Baron, who hath no voice in the Court, as to any business, save the taking of the accounts of Sheriffs, Bailiffs, Auditors, Receivers, &c.

The Subordinate Officers in this Court are,

The Kings Remembrancer, in whose Office are the proceedings by English Bill and Answer; and there are several Attorneys in that Office for that purpose.

The Lord Treasurers Remembrancer, who hath several Attorneys also in his Office.

The Clerk of the Pipe.

The Controller of the Pipe, and several Clerks there.

The Clerk of the Office of Pleas, in whose Office are four Attorneys.

The Clerk of the Excheats.

The foreign Apposer.

The Auditors of the Court.

The Tellers, one whereof is chief, the rest are Under-tellers and substitutes.

The Clerk of the Tallies.

The Chamberlains of the Court.

The chief Cryer, and several other Cryers.

The Usher and Porter of the Court, and Court-keeper.

The Keeper of the Records.

There are divers ways of proceeding in the Court of Exchequer; as the Office of Pleas in most things suitable to the proceedings of the Common

Law in other Courts: the leading Process there, is either a *Subpœna*, or a *Quo minus*, which is to arrest the body of the defendant; as a *Capias* out of the Common Pleas, or a *Latitat* out of the Kings Bench.

But with this difference, that the plaintiff in the Exchequer, whether it were in Law or Equity, ought to be either a Tenant or Debtor, or some ways accountant to the King: and so the end of their Writ concludes, That for default of the defendants giving him satisfaction, he is the less able to satisfy the King. And in their Declarations, they begin with the plaintiff, *Debitor Domini Regis*; and in their English Bill, debtor and accountant to our Sovereign Lord the King at his Exchequer, always supposing the plaintiff to be a debtor. But now the Practice in the Exchequer is grown general in almost all Cases, especially in Wales, where no Kings Bench runs, nor any Process out of the Common Pleas, but onely a *Capias utlagatum*. And their proceeding by *Subpœna* in the Office of Pleas, being easie for the Plaintiff, brings much business into the Office of Pleas.

SECTION II.

A Recapitulation of the Officers and Offices in his Majesties Court of Exchequer.

THE Lord Treasurer with the Chancellor and chief Baron, calling others to them, name Sheriffs in *Craftino Animarum* yearly, by the Statute Anno 14 Edw. 3. cap. 6.

The Lord Treasurer granteth *Firmam terrarum* seis, pro Domino Rege, quamdiu in manu diſi Domini Regis

Regis fore contingerint, to such as sue for it, by his Warrant made of late to the Clerk of the Pipe; and in old time directed to the Lord Chancellor, or Lord Keeper of the Great Seal for the time being.

He likewise sitteth with the Chancellor, Under-treasurer, and Barons of the Court; and with them ordereth the matters before them for the profit and service of the King, and dispatching of suits and suitors: but the judgement is onely *Per considerationem Baronum*.

The Treasurer, the Chancellor, the Under-treasurer, and Barons of the Court, do make orders and decrees of allowances of Pensions, Portions, Rents, Payments, Fees, and Considerations, thought good by the Court; and upon intricate matters, and matters of equity in the Court, between the King and the party, to bring them to a final end, as is best for all parts.

The Lord Treasurer, and the Chancellor, and Under-treasurer, and Barons of the Court, do according to his and their discretions, punish all the Misdemeanors of the other Officers and Ministers of the Court, and of all others that abuse the Court, or the causes, the process and appendances of the same.

Of great authority is the Lord High-treasurer, both by Acts of Parliament, and other Warrants: *Que vult non nobis constant*, &c.

The Chancellor.

In the Lord Treasurers absence, in the Exchequer-Chamber, he doth all things to the Kings most benefit and furtherance.

He maketh Warrants to any of the Remembrancers, to make all manner of Commissions, Proseses,

and Injunctions, as the Case requires, as the Lord Treasurer doth.

He hath of late referred unto him the oversight and rule of First-fruits and tenths; of all compositions, bonds, matters and causes of the same.

In great causes of the Court he useth to make the Lord Treasurer privy thereunto, and doth confer with his Lordship about the same.

The Under-treasurer.

This Office was erected in the time of King Henry the Seventh.

The Under-treasurer in the time of King Henry the Seventh (the report of the remain of the treasure in the receipt, being brought then to the King at the end of every Term) did chest the same up, and did content every chest what sum and sorts of money was in it, inscribing it as it fell out in course, and carried it to the Kings Treasurer in the Tower, and entered the same in the Kings book, which he kept in his Desk; leaving ever in that receipt sufficient money to pay ordinary Fees, and sums of money it was charged with, between that and the next Term.

Before the uniting of the Court of Augmentations unto the Exchequer, and since the death of the then Lord Treasurer did make the two Praisers of all Wares and Merchandises seised by any Informer, as taken up uncustomed, and informed against in the Court of Exchequer, whereof they make him a bill of appraisment, and he giveth order whether the owners shall have the goods again as they be appraised, or whether part or all shall be otherwise sold.

The Lord chief Baron.

He is the chief Judge of the Court, and in matters of law, information, and plea, he answereth the Bar and all suitors.

He giveth all rules, or days for bringing of Pleas, informations, answers, replications, rejoinders, and amending of the same, as occasion is offered at the Bar.

He maketh all the orders of the Court, that touch or concern the matters at the Bar, or the suit depending in the Court, or is moved by Council; and yet with great orderly consent of the Lord Treasurer, Chancellor, Under-treasurer, the other Barons, and the Kings Council, as the case shall require.

In open Court he awardeth commissions, processes, injunctions, and all manner of Writs, and commandeth stay and *Supersedas* of the same: and such his rules or orders are entered in the book on the Remembrancers side, which they call the *Minute Book*, and there they issue out the said commissions and process.

Out of Court he also maketh Warrants to any of the Remembrancers whom it concerns, to make out any manner of commission, process, injunctions, *Supersedas*, Writs of privilege, or such like.

In the Court he sets fines and amerciaments upon sheriffs, coroners, escheators, commissioners, pursuivants, makers and aiders of rescues, that do not execute, serve, return, deliver, or obey the Kings commissions, processes, injunctions and writs, as to every of them is due.

He likewise commits in open Court and in the Exchequer-chamber, such as be indebted to the King.

or that mis-behave themselves in the Court, or that disobey the Kings Process; that are in contempt for not keeping of their days, or the order of the Court, or otherwise deserve to be committed upon any other case.

In the afternoons in the Term-time, he sits upon all Tryals by *Nisi prius*, in London in the Guild-Hall, which come thither out of the Remembrancers Office, or the Office of Pleas.

He appointeth days for argument of all demurrers at the Bar.

He commandeth all the Officers under the Bench to make search for the King and the Court, and to give their attendance on the Barons in the afternoons at Westminster, to set fines and amerciaments on the Sheriffs; and to inform the Court of what is meer, or otherwise to confer with them: or otherwise to attend at his Chamber, upon him or his Fellows, for conference or information, about some special matters there under consideration.

In open Court he and his Fellows take all manner of Recognizances without Fee, either for the Kings debt, for appearances, for observing Orders, for keeping the Decrees of the Court, and such like: But for every Recognizance taken out of the Court, he hath 6 s. and 8 d.

He taketh the presentation of all Officers of the Court that are under himself, and of the Mayors and Sheriffs of London, and seeth them take their Oathes, which are read unto them by the Kings Remembrancer.

He taketh the Declarations of the ingrossed accounts of the late augmentation-revenue in the Countiees of Northumberland, Richmond, Durham.

Receivers of Nottingham, Derby, Lincoln, &c.

Receivers of Chester, Lancaster, Westmorland, and Cumberland.

Receivers

Receivers of Northampton and Rutland.

Receivers of Leicester and Warwick.

Receivers of Salop, Wigorn, Stafford and Hereford.

Which are made before him, by the Auditors of the same Shires

He with the Kings Attorney, *Pro missis parcandis*, doth set all the Fines upon compositions, upon any that is informed against in that Court, by any popular action or penal Statute; upon payment whereof the defendant hath his *Quietus est*.

The second Baron.

In the Lord chief Barons absence, he answereth the Bar, in matters of orders and course, as the case requireth; and in matters of Law, difficulty or importance. But matters of great importance, he referreth to the Lord chief Barons coming, until the Court be full.

But he and his fellows, in the absence of the Lord chief Baron, may do all things in Court, that the Lord chief Baron can do, although there be but two of them: and it is good in law *per considerationem Baronum*; yet in matters of great moment, they will respite the same until further day to advise thereof.

He doth also take all manner of Recognizances out of Court, as the Lord chief Baron doth, and hath his Fee of six shillings and eight pence, for every one so taken; and in the Lord chief Barons absence, he taketh all Recognizances in Court.

He taketh the Declarations of the ingrossed acccompts of the Receivers of the late Augmentation Revenue in the County of Kent, Surrey, Suffex.

Receivers of London, Middlesex.

Receivers of Hartfordshire and Essex.

Receivers of *Norfolk and Huntington.*

Receivers of *Suffolk and Cambridge.*

Which are made before him by the Auditors of the said Shires.

He casteth up the sums of such Sheriffs forreign accompts, Escheators accounts, Collectors accounts of customs, Subsidies, and Fifteens, as any of the Auditors bring unto him; in the head of which account, the Barons name is set that examined them; and his addition thereunto is *Auditor*: and the Auditor sets his name under the Barons name, with the addition of *Clericus*: so that the three Under-barons were anciently accounted *Auditors*, and the Auditors their Clerks.

The third Baron.

He may do all things in Court in the absence of the two first, as they might do: but in both their absences, he is cautious of meddling of any business but what is ordinary; referring over matters of greater moment, to a full Court.

He may take Recognizances to the Kings use, as the other two, receiving the same Fee.

He taketh the declarations of the ingrossed accompts of the Receivers of the late augmentation-revenues in the Countiees of *Somerset, Dorset, Cornwall and Devon*; and examineth the letters, and casteth up the accompts which any of the Auditors bring unto him.

The fourth Baron.

He taketh the Oath at *Simon and Judes* day of the two Attorneys the new Lord Mayor then putteth in, *ad recipiendum mandatum curie*; and likewise of the Deputy

Deputy-escheator and Gauger of the late Lord Mayor, Escheator and Gauger of London, that they shall make a true accompt of the said offices, and ask no petition nor allowance, but that which is good and true.

He taketh the Oaths of High-sheriffs, Under-sheriffs, and all other Officers, &c.

He taketh the apposals of the Sheriff of their summons that come in, and are sworn to account, apposing every Sheriff what he will say to every summons which is written to him out of the Pipe; who upon the said apposals answereth unto such sums as he will pay and charge himself with, confessing so much due or received: and to the other sums he will answer *O, Ni.* as confessing *Oneretur nisi exoneretur.*

He informeth the Bench and the Kings Counsel both in Court and out of Court, from time to time, what the course of the Exchequer is, that they order nothing contrary to the said course, for the preservation of the same, and to save the Kings Prerogative and benefit.

He taketh the Declaration of the ingrossed accounts of the receivers of the late augmentation of the revenues of the County of York.

Receivers of *Oxon* and *Berks.*

Receivers of *Buckingham* and *Bedford.*

He likewise examineth the letters, and casteth up the account of such Sheriffs, forreign accounts, &c. as the two other Barons, &c.

He taketh the Bails of Sheriffs, Bailiffs of liberties, and Escheators, that keep not their days of Pre-fixions, but come into the Court by attachment, and give sureties to be sworn to account; and assesseth the fines of all such Bailiffs, *pro Liberrateprehenda*; which be very small, never above five shillings

lings, and sometimes but twelve pence, or two shillings; and for the Sheriffs Fines, it is always five pounds a day, for his next four days after his day of prefixion, that he saileth to come and be sworn to his account.

The Chamberlains.

These are the next Officers, and have their place in Court next to the Barons, where they may sit daily, if they please, but have nothing to do with the causes of the Court.

But yearly in *Crastino Animarum*, they keep their places at the election of Sheriffs; and may give their Votes for preferment, or stay of men nominated to be Sheriffs, as the Barons and Justices do.

They have charge of the Treasury with the Lord Treasurer, and have likewise Keys thereof, where all the ancient leagues between the Kings Progenitors, and other Princes and States either are or should be kept; and where the book called *Dooms-day-Book*, and the ancient Records and Pleas *de Justiciariis Itinerant. & de forestis*, and of divers other matters, do remain.

The Kings Attorney.

He is made privy to all Pleas extraordinary that rise upon proceſs of the Court, and to the Replications and Rejoynders growing upon the same.

In his own name he exhibiteth into the Court for the King, all informations of concealments of customs, subsidies, seifures, receipts; and of intrusions, wastes, spoils, incroachments, and annoyances done upon any of his Majesty's lands, renelements, woods, Rents, Rights, and Hereditaments; and

and upon any penal Statutes, Forfeitures, or breach of Covenants.

The Office of the Kings Remembrancer.

The Kings Remembrancer yearly, at certain days prefixed in Term-time, calleth to account the great Accountants, by his Book called, *Statutus magnorum computantium*, &c. as the Cofferer, Master of the Wardrobe, &c.

And he calleth by the same book all Searchers *ad respondendum Domino Regi medietatem omnium foris facturarum*, in officio suo contingent, &c. and all Collectors *ad computandum* &c.

In this Office are also Process made out against such Collectors, their bodies, goods and Tenements, that come not in to account, and pay not their money as appointed.

He taketh Recognizance before the Barons to the Kings use, and upon breach thereof, Inrolleth and maketh out Process against such persons as have forfeited the same,

The Remembrancer informeth the Lord Treasurer, Chancellor, or Vice-Treasurer, as he is required, of all Debts and Arrearages of any of the said Accountants, and of Bonds or Recognizances in his Office due unto the King.

And according to order he stayeth or sendeth out Processes for the said debts and arrearages : and in his Office, any person vexed with Process may plead unto the same, with discharge thereof; with which pleading the Kings Attorney is made acquainted, and either referreth the same over unto the court, or confesseth it.

In his Office are prosecuted Informations upon penal Laws, Intrusions, Concealments, and the like.

like. And the Kings Remembrancer maketh the bill, roll of Compositions, *pro misis parcandis* upon penal laws.

In this Office are made out commissions into the country, authorizing Commissioners by *Dedimus potestatem*, to take bond to the Kings use, where the party is to be bound with Sureties, and cannot come up, or bring his Sureties to be bound for him; the return whereof is recorded and filed here: which Commissions are made by Warrant from the Lord Treasurer, Chancellor, Vice-Treasurer, the Kings Attorney, and the court.

Out of this Office issueth all process, commissions, decrees, &c. and are here recorded.

Here is likewise the Record made of every bishops death, &c.

The Kings Remembrancer every *Easter* and *Michaelmas*-term, taketh the proffers of all the Sheriffs and Bailiffs, &c. before the Barons in the receipt, and marketh the defaults, &c.

He readeth the Oaths that all the grand Officers of the Exchequer do take, and the Oathes of the under-Officers; and maketh the great Prerogative-Writ of the court, for all Officers and Ministers of the Exchequer that be sued in any other court.

The Remembrancer entreth Judgement in all causes depending on his side, both for the King and the party, according as the court doth give direction; and without order of the court, Judgement in all Pleas of course.

The Kings Remembrancer sendeth the red book by one of his Clerks, with the fourth Baron, most commonly; and in his absence, with the next Baron into the Kings bench, and Common Pleas, in the Term-time, to remove any matter sued there against any Officer, Minister, Servitor, or any of their

their men, or any of the Accountants there, that prayeth his priviledge in time in the said court: upon which red-book shewed, and the party so testified by the Baron to be of the court aforesaid, his priviledge is ordinarily allowed.

Into this Office are received the certificates of all Subsidies, Tenths, and Fifteens granted to the King by the Parliament.

The Remembrancer sendeth every *Hillary* and *Trinity-Term*, severall Parchment-books to all the customers, controllers, surveyors, and searchers of the Ports and Creeks throughout *England*; to make the first and second half years Entries in the same of the Kings customes and subsidies, and the cockets thereof: and every *Easter* and *Michaelmas-Term* he receiveth the same again of the said Officers, upon Oath that they have made the true Entries of the same.

Into this Office are also brought from the Barons and Auditors of all Sheriffs, forreign Accounts, Collectors Accounts of Subsidies and Fifteens, and the Cofferers Accounts; where there are Entries made thereof, and process made thereupon till they be discharged.

The Remembrancer sendeth commissions of *Nisi prius*, by the Kings Attorneys Warrant only, upon tryal of any matters within his Office, at the Assizes in the country, *Ad tenorem Recordi*, under the Exchequer-Seal. But at the *Nisi prius* in London, at *Guild-Hall*, he hath the Record of his Office brought thither without commission, because the Lord chief Baron sitteth thereon.

The

The Lord Treasurers Remembrancer.

This is the second Remembrancer of the Exchequer, and hath his Office chiefly established upon the execution of the Original (save for the great accounts, the Customers, Controulers, and Searchers) that is yearly streated to him out of the Chancery, and is called *Extraſum Cancellarie*, being the yearly Streath, under the Great Seal of England, of all Sheriffs and Escheators Patents; of the Patents of all Customers, Controulers, and Searchers; Receivers, Reeves, Beadles, Bailiffs, Collectors, Stewards; of all grants of Lands and Tenements for life, in Fee-simple, Fee-tail, general or special: of all Denizations; Creations of Arch-bishops and Bishops, Erections of any Abbeyes and Priories, Colledges, Chantries, Hospitals, Schools, and corporations: of all Custodies of any Honors, Castles, Lordships, Manors, Chafes, Forrests, Parks, special and general; after the course of the Chancery and *Ouster le Mains*; of all Licenses of Alienations, going over-Sea, Transporations, Introductions, Retains, Imparings, and Inclosures: Or all Pardons, Alienations, Intrusions, Trespasses, Outlawries, Felonies, Murders, Misprisions, Treasons, and Forfeitures: of all Restitution of Blood, Goods, and Chattels, Lands and Tenements: Of all leases for term of life or for years: of all Fines gross and small: of all *Writs* of Restitutions: of Temporalities of any Abbey, Priory, Arch-bishoprick, Wards, and seized lands and tenements: of all *Diem clausit extremum*, *Mandamus*, *Melius inquirendum*, &c. *qua plura*.

Out of this Original, this Remembrancer doth make a book called a Roll of Proffers, which is a
Record,

Record, and part of the Remembrance of every year : and when the said Proffers are done, he maketh Proclamation in the Receit before they arise ; That all Sheriff, Bailiffs of liberties, &c. do pay their Proffers, as they are accustomed *infra mensem* ; and keep their days of prefixion for their accounts, in the Exchequer, according as by the court they are appointed, on the peril, &c.

And hereupon by his book called the scroll of accounts, made out of the Rolls of Proffers ; and other parts of the yearly Remembrance, called *Dies dat. Vice com. & Escaet. ad computand. post profra* : Every Michaelmas-Term he doth call all Sheriffs, &c. of the last year, to come to account, some on one day, and some on another, as the several dayes of prefixion are, and anciently have been set by the court, and as they should be able to finish their accounts.

Out of the Chancery-Original, the roll of Proffers, *Dies dat. Vice com. &c.* the roll of accountants, and other records, He yearly maketh a book called the roll of VVrits, which is also a part of the yearly remembrance made in his Office ; in which he inrolleth all VVrits, &c. returnable in the four Terms every year.

Also out of the Originals from all Receivers, Bailiffs, Reeves, Collectors, and Beadles, Patents of any of the Kings lands or tenements, he doth inroll and write *Venire facias ad computand.* or *Distringas ad reddend. computum*, from all Grants of Honors, Castles, Lordships, Mannors, Lands, and Tenements, granted by the King to any for life, in Fee-simple, Fee-rail, general or special : He doth Inroll and write *Distringas ad faciend. fidelitatem*, & *ad faciend. homag. & fidelitatem* : or a VVrit of reversion when the Tail is spent ; and otherwise as he

the case requireth. From all Denizenships he maketh *Distingas ad faciend. homag.* From all custody of Lands and Tenements, or Farms, he doth inroll and write *Distingas ad faciend. fidelitatem; or homag. & fidelitatem;* or, *ad respondend. de Releviis*, from all pardons of Outlawries, Attainders, Felonies, Murders, Treasons, Misprisions of Treasons.

Likewise he doth inroll and write *Distingas ad respondend. de omni eo, quod ad Regem pertinet, &c. vel certiorari quæ bona & catalla A. B. habuit, &c.*

From all Licenses of Aliénations, he doth inroll and write *Distingas ad faciend. fidelitatem;* or, *ad audiend. & terminand.*

He doth inroll and write Writs of Restitution of any Temporalities.

Also he doth inroll and write *Distingas ad reddend. computum de exitibus temporal. &c.* and *Certioraries;* sometimes *Quis recepit exitus & profic. temporal. &c.*

Further, from the said roll or proffers, he doth inroll and write process against such as pay not their proffers, *Infra mensem, &c.* As *Capias pro contemptu*, with a *Fieri facias pro profera, &c.*

And from the said scroll of accounts, grounded upon *Dies datus* aforesaid, every Michaelmas-Term, he maketh a Record against Sheriffs that make default at their days of prefixion, of five pounds for every day of payment after he makes default, while four days next be past, which is set down in the Pipe to be charged upon them; or is levied upon a *Fieri facias*, except the Kings letter come for the discharge of such amerciaments; and then he doth inroll and make out an attachment for his body, goods, chattels, lands and tenements, while he cometh in to account, and putteth in bail to end and finish the same: and against all Bailiffs of Liberties

Liberties that make like default, he inrolleth and maketh out the like Process as against the Sheriff.

This Remembrancer hath set down in his book called *Nomina Vic.* by the Clerk of the Pipe every year, the debts of all Sheriffs, Bayliffs of Liberties, and men of certain Towns, that are found and cast upon their accompts, entred in the Pipe; and in another of his books, called *nomina Escaetor.* he hath every year the like debts of Escheators set down by the same Clerk of the Pipe; for all which he maketh attachments, and other ordinary process of the Court, for the Levying of the same, as the case doth require.

In his Office he hath also a third book called *Schedula Pipe*, wherein is set down by the Clerk of the Pipe all debts of such persons as upon the oppo- sals of the Sheriffs of their summons be said by them to be dead; to the end he should make a *dictum clausi Extremum*, after the death of such debtors, to the Sheriff, which is the Award of the Court, and of purpose to enquire what day and year they dyed, and what goods and chattels, and of what value they had, at the time of their death, and to whose hands the same came and now be, and to seize the same in whose hands soever they be, and to levy the same debts, and to have them before the Barons such a day, &c.

And if their goods and chatte's be not sufficient to pay the said debts, then to enquire what Lands and Tenements, and of what yearly value, they had at the day of their Deaths, or when they became debtors, or ever since; and to whose hands and possession the same came after their decease, and in whose hands they now be, and the same to seize in whose hands soever the same be, and keep safe, and to answer the issues and profits of the same, un-ill

the said debts be satisfied & paid, or that he otherwise is commanded; and to distrein all the Executors of the Testament of the said debtors, as administrators of the goods and chattels that were his; and also the Heirs and Ter-tenants of the same debtors, if they have not Executors to answer the same debt: and all to the intent the same might this way be paid, that could not by the *Summons* of the *Pipe* be so le-
vyed.

And likewise the Clerk of the *Pipe* putteth into this Remembrancers book called *Schedula Pipe*, other great and special debts, for which the Court will have speedier process made then by the *Summons*, that the money may be the sooner paid, and answered into the receipt.

Also he receiveth into his Office all *Streats* of *Fines*, *Issues* and *Amerciaments* sent into the Court, from the *Kings-Bench*, the *Common Pleas*, *Justices of Assize*, and *Justices of the peace* throughout all *England*.

Further, he taketh on his side all *Sheriffs* forreign accompts, and the accompts of *Bailiffs*, *Escheators*, *customers*, and the collectors of *subsidies* and *fifteens*, and the *cofferers* accompts, as the *Kings Remembrancer* also doth; and ruleth the petitions of the accomprants for allowance, without the privity of the Court, that being matter of record and pre-
sident.

By warrant from the *Lord Treasurer*, *Chancellor*, *Vice-treasurer*, *Lord chief Baron*, or *Kings Attorney*, out of Court, and by order of the *Barons* in Court, he maketh all manner of *Process*, *Writs*, *Commissions*, and *Injunctions*, for matters on his side depending.

There are many other matters belonging to the Offices of both these Remembrancers, which practice will

will daily experience you in, besides the business unto them assigned by the articles for the uniting of the late Court of augmentations unto the Exchequer; which articles I shall set down at large, referring you unto them.

The Attornies and Clerks of the Kings Remembrancers Office.

These follow the proceedings by English Bill, as the Clerks in Chancery do, and are retained in all causes and suits brought here between party and party, plaintiff and defendant.

SECT. III.

The proceedings in the Exchequer by English Bill.

THE manner of this proceeding somewhat follows the practice of the High-court of Chancery, save that the Chancery is always open, and their process bears Teste aswell out of Term as in Term; which this doth not.

The Title of the English Bill in the Exchequer is directed,

To the Right Honourable the Lord Treasurer for the time being, the Chancellor, the Lord chief Baron of the Exchequer, and the rest of the Honourable Barons there; as thus:

To the Right Honourable *Thomas* Earl of Southampton Lord High-treasurer of England, *Anthony* Lord Ashly Chancellor of his Majesties Exchequer; *Sir Matthew Hale* Knight, Lord chief Baron of the

Exchequer, and to the rest of the Honourable Barons there.

An English Bill lyeth there, in case where the Plaintiff supposeth he hath right to recover the possession of lands or goods detained from him, or debts due unto him; or to have remedy for some other wrong done unto him by the Defendant; and that he hath no evidence nor specialty to shew forth, nor can make any such proof as the strict rules of the common Law requireth to recover or have remedy for the same; but alledgeth that it lyeth in the Defendants own knowledge, and that he will confess the truth thereof in his answer.

And in case where the Plaintiff is sued at common Law for the possession of any lands, or for any goods, chattels, debts, or other things against which he can make no sufficient defence by strict course of the common Law, or that he hath paid a debt or satisfied a bond, and hath no witness thereof, and the Defendant sueth him again at Law for the same debt; so that in Equity and good conscience he ought to be relieved, and yet either wholly discharged, or the rigour and extremity of the common Law moderated and mitigated, and supposeth that the Defendant will confess in his answer the truth of the matter alledged in the Complainants Bill.

In this Court the Clergie frequently exhibite English Bills against such as refuse to pay them their small Tithes, to make the Defendants set them forth upon Oath, and for which they cannot sue at Common Law.

All such persons as exhibite any English Bill into this Court, ought to be priviledged either in person, as an Officer or Clerk of the Court, or servant to some of them, or an accomprant or debtor unto the King, or otherwise; or else the cause ought to concern the

the King, in the Inheritance, Possession or Interest of any Lands, Tythes, Offices, Goods, Chattels or Debts, wherein the Plaintiff likewise pretendeth to have Interest in Right of the King; or if the Plaintiff be sued by English Bill, or action or extent, or other process in the same Court for the same matter.

But now, whether the Complainant be any way really privileged or not, is not so much material, only he must suppose it in his Bill; and therefore every Plaintiff must beg in his Bill after this manner.

Humbly complaining, &c. your Orator *A. B.* of &c. Debtor and Accomptant unto our Sovereign Lord the King, at his Majesties Exchequer, as by the Records of this honourable Court appeareth, &c. or to the like effect, alwaies suggesting himself a Debtor, &c.

The Kings Attorney may exhibite English Bills in the Exchequer for any matter concerning the King, in Inheritance or profits; and in like manner any person that findeth himself grieved in any cause prosecuted against him, for or on the behalf of the King, or any Patent by grant of the King, may exhibite his English Bill against the Kings Attorney and such others as are interested in the cause, to be relieved in equity. In which case the Plaintiff must attend the Kings Attorney with a copy of his Bill, and procure him to answer the same; And the Kings Attorney may call any that are interested in the cause, or any officer or others to instruct him herein, touching the making of his answer to the said Bill, so as the King be not prejudiced thereby, and the Kings Attorney answers without Oath.

The usual leading process in this Office is a writ of *Subpoena*, wherewith in all bills between party and party, the Plaintiff must serve the Defendant, or cause him to be served.

But if the defendant be a Peer or Baron, or Lord Spiritual or Temporal, or any Dutchess, Countess, &c. such are to be served with a Letter under the hands of the Lord Treasurer, Barons, or some of them, whereby the defendant must be required to appear at a day certain, contained in the Writ or Letter : which process of *Subpœna* may be sued forth either before or after the Bill exhibited, so that you have your bill ready to file at the return thereof. And if the defendant do not appear at the day of the return of the writ, then upon affidavit made of the serving thereof, an attachment is made of course against the defendant for his contempt, which must be made to the Sheriff of the proper County where the defendant doth, or last did inhabit ; and upon the Sheriffs returning *non est inventus* ; there issueth out an *Alias* attachment and *Pluries* ; and upon the return of the *Pluries*, an attachment with proclamation, and then a commission of rebellion, directed to such commissioners as the plaintiff will name ; for which commission there must be a warrant of the Court.

And when a Letter is made and sent to any Lord, Baron or Bishop for appearance, and if he will not appear upon the Letter, then a process of *Subpœna* must be served ; and upon default, then process of contempt aforesaid. And the like course of process is to be prosecuted against the defendant, at the suit of the Kings Attorney.

When the defendant doth appear, if the Bill be not put in, he may move to be dismissed with costs ; whereupon the Court doth usually give three or four days unto the plaintiff to put in his English Bill ; or else the defendant to be dismissed with costs, upon a bill of costs, to be tendered by him to one of the Barons to be taxed.

And if the defendant stand in contempt, and come in

to appear upon process of contempt, he must pay costs according to the number of the process which have been prosecuted against him; which usually is ten shillings upon each attachment: so that if he appear upon the proclamation, the costs is forty shillings; if he stand out to a commission of rebellion, the costs is five marks.

After the defendant hath appeared, he hath eight days after of course to make his answer to the complainants bill; and if he answer not within that time, a Rule is given of course in the book of appearance for an attachment within four days, the defendants Attorney being called unto for answer: but usually the attachment is of course at the eight days end.

If the defendant do demur upon the bill, for want of sufficient matter contained in the Bill, or put in a plea in bar of the proceeding upon the bill, the plaintiff, if he will maintain his bill, must move the Court for a day to hear the Council on both sides, and the bill and demurrer (if need be,) if the Council do not agree upon opening the matter.

If the defendant do plead any matter to bar the proceedings upon the bill, (other then matter of Record of the same Court,) he must be sworn to his plea, as he must to his answer, if he answer in the chief, of what quality soever the defendant be; except it be the Kings Attorney, or a corporation sued by the name of their corporation, who answer under their common Seal.

Also if the defendant do make an insufficient answer, the plaintiff must put in his exceptions in writing, and move the Court to give the defendant a day to amend, or maintain his answer; in which case if the defendant be in Town, he is to take notice by the order, and to obey the same; but if he be not in Town, he is to be served with a *Subpoena ad faciendum meliorem*.

melioris responſionem : If his answer be over-ruled upon hearing, an attachment may be made against him for an insufficient answer.

The Defendant either upon demurrer, plea, or insufficient answer, if he cannot maintain the same, but that the Court doth order him to make a better answer, he must pay such costs to the Plaintiff as the Court shall think fit, which usually is 40 s. or 7 nobles: and if he maintain his plea or demurrer he is to be dismissed with costs.

If the Defendant putteth in a plea to disable the person of the Plaintiff, wherein he pleadeth matter of record, as an outlawry, or the like, which is no bar to the matter, but a delay of proceeding untill the Plaintiff be enabled to sue; he must together with his plea produce the record which warranteth the same; as if he plead an outlawry, he must with the plea bring the *Capias utlagatum* under Seal; and so likewise of an Excommunication.

After the Defendant hath appeared and taken a Copy of the Bill, if he find that he cannot directly answer thereunto without sight of his evidence, which are in the Countrey far off; or if there be more then one Defendant, and one or more appear, and the rest do not appear, and the Defendants that do appear cannot answer without conference with the rest that are in the Country, upon Affidavit made upon such or the like allegations he may have time to answer untill the beginning of the next Term, either in person or by Commission, as the Court shall think fit.

Or if Affidavit be made that the Defendant is aged, impotent or sick, and not able to travel, he may have a Commission to take his answer in the Country.

But now for the more ease of such as dwell far off in the Country, Commissions are made of course to take their answers in the Country; wherein the Plaintiff

Plaintiff may name one or two Commissioners to see the Defendant sworn to his answer; and notice must be given to the Plaintiff or his Commissioners, of the Execution of the Commission, acquainting them of the day and place certain dayes before.

If the Defendant have matter to plead to an English Bill, and be not able to come to put it in upon Oath, he may have a special Commission to Commissioners to take his plea, and the Plaintiff may proceed upon plea as upon answer, if he think good; but if the Defendant have a Commission to take his answer or plea, he may not afterwards demur.

When the Plaintiff exhibits his Bill to be relieved against a suit at Law, or in the Ecclesiastical Court, and the Defendant stand in contempt either for not appearing or for not answering; or if he desire to have a Commission to take his answer, the Court upon the motion of the Plaintiff doth usually stay the Defendants proceedings at Law untill he have answered the Plaintiffs Bill, and the Court taken further order.

If the Defendant be a prisoner, and be served with process to appear to a bill, and will not appear; or if he do appear and be in prison, and will not answer, the Court doth usually order that he be kept close prisoner untill he yield obedience unto the Court.

After the Defendant hath answered (or before if there be good cause) the Court doth grant Injunctions either for quieting of possessions, or stay of suits both at Common Law, and in the Ecclesiastical Courts, untill the hearing of the cause in Equity, or other order upon good cause shewn.

If a Defendant demur with an answer over to the matter of the Plaintiffs Bill, the Plaintiff may thereupon proceed to bring the cause to hearing, and the Defendant at the hearing may stand upon the demur

demur until the Court do over-rule that ; but after the answer put in, the Court will allow no exception to the jurisdiction.

If the defendant doth answer fully, the plaintiff may, if he will, go to hearing upon bill and answer, and may move the Court to have a day of hearing appointed ; which day of hearing being set down, he serves the defendant with a *Subpoena ad audiendum Judicium*, to attend the hearing. Now if the plaintiff go to hearing upon bill and answer, he must admit the defendants answer to be true in all things, as well in that which is denied, as that which is confessed.

If the plaintiff do not finde matter confessed by the defendant in his answer, whereupon he may proceed to hearing, then he must reply to the defendants answer, maintaining his bill, and denying and traversing the material points of the answer ; wherein he may also adde such further matter as shall be pertinent and necessary for him to prefer for the strengthening of his bill, and avoiding of the defendants answer ; and must serve the defendant with process of *Subpoena* to rejoyne to the said replication, except the defendant be ordered to rejoyne *gratis*, as sometimes it is.

When the cause cometh to hearing upon bill and answer, and the Court seeth no sufficient matter confessed in the answer to proceed upon, the plaintiff may desire that he may reply and proceed to proofs, and the Court will allow him so to do, especially where the Kings Attorney is plaintiff for the King.

If there be more defendants then one, and they put in several answers, the plaintiff may reply to them all in one replication ; but if the cause of suit be Joynt, and some of them answer, and others do delay their answers, the plaintiff cannot reply till all

ll have answered; for if he do, he waves his proceedings against the rest, and he cannot have a decree against some of them without the others: But if the cause of suit be several, the Plaintiff may reply and proceed to hearing with some of the Defendants, and proceed with the rest afterwards.

VWhen a Defendant is to rejoyne, if there be no new matter in the replication, he is to rejoyne of course to maintain his answer for formality; but if there be new matter in the Replication, he must rejoyne specially to that matter; and likewise if there arise new matter in the Defendants rejoinder, the Plaintiff must sur-rejoine to that; and so as long as new matter doth pertinently arise in the pleading, they must proceed, rejoyning and sur-rejoyning until every material point be put in perfect issue.

When the Plaintiff and Defendant are at issue, the Plaintiff, if he will, may proceed to hearing upon record, and without examination of witnesses, and the Defendant may nevertheless examine witnesses, if he will, in time convenient; or if there have been any former examinations in the same cause, either between the same parties, or any other under whom they claim, either in the same Court or any other, the Plaintiff or the Defendant may move the Court, and desire to have them allowed, to be used for evidence at the hearing; in which case the Court will give a day to the other side, and upon hearing of both sides do allow or disallow them, as is then thought fit; and accordingly they may prepare themselves for proofs more or less, as they see cause.

When the Defendant is served with process of *Subpoena ad rejuendum*, and doth not appear, the Plaintiff upon *Affidavit* made in the Term-time of serving the *Subpoena* (if there be no new matter in the Replication) may have a commission alone, if the
Defendant

Defendant will not joyn within a certain time, and then the Plaintiff may have a commission to such as he shall nominate to examine his Witness.

But if the Defendant joyn in commission, then either side is to name indifferent Commissioners, and each party to chuse two of the four named by the other; and the commission is to be directed to those four agreed upon, and the Plaintiff is to have the carriage of the commission, and is to give fourteen daies warning (or such other notice as is agreed upon) of the day and place of the Execution thereof, except there be a day and place appointed in the commission: which sometimes is done by agreement of the Solicitors on both sides, or by order of the Court.

If the one side will examine Witnesses by commission, and the other will not, yet he that will not examine may joyn in Commission to see an indifferent examination, if he will; and therefore shall have warning of the day and place.

If the Defendant make default, and do not joyn in Commission at the first, yet if he come afterwards, and can shew any reasonable cause why he did not joyn before, the Court will allow him to examine his Witnesses in reasonable time; or if a Commission be taken out by one or both sides, and not executed, but in part executed, where there is no wilfull default in the parties, but by some other accident the Execution is prevented, the Court upon motion, and proof of the Allegations, will grant a new Commission; but if either party will wilfully neglect to examine, for delay and to gain time, or to hearken and learn what hath been examined and proved on the other side, that he may the better prepare his Witnesses and Interrogatories for a cross examination; in such cases the Court will give no favour to the party

party that shall so willingly or purposely be negligent.

In case where one side hath examined all his Witnesses, and the other hath not, but obtaineth a new Commission, that party that examined may joyn in a new Commission without charges to see the examination.

Such Witnesses as live, or are in *London*, may be examined on either side at a Barons chamber before him, at any time before publication; and either side may have process of *Subpoena* to bring their Witnesses before the Barons to be examined, and the like process or the Commissioners warrant to bring their Witnesses before the Commissioners.

Such Witnesses as are to be examined before the Barons must be shewn to the other side or their Attorney in Court, before their examination, and a note must be given of their names, and places of abode; to the end that either side may examine them if they will, and may know who swears against them.

Before any examination can be had, the Parties that will examine Witnesses, must prepare their Interrogatories in Parchment ingressed, to be exhibited before the Commissioners or the Baron before whom they will examine; and the Interrogatories must be drawn according to points in issue by the bill and answer, and other pleadings, and they must not examine upon any thing that is not in the pleadings, if they do, it is to be suppressed, and there must be no alteration of any Interrogatories, nor addition of any after the first examination; but if there be further examination, that must be upon the same Interrogatories that were first exhibited, and if any examination be taken otherwise, it must be suppressed, whether it were taken by commission or in Court, except it be so appointed by some special order of the Court.

If a Witness be examined on one side, and after be served with process to be examined on the other side, and do refuse to be examined, the Court will not allow his depositions to be used, because he hath shewed himself to be partial.

After the VVitneses be examined on both sides, there must be order for publication of their depositions, either by consent of both sides, or by motion of the one side, and a day given to the other side to shew cause why publication should not pass; at which day if nothing be said to the contrary, they are published, and the cause is to be set down afterwards for the hearing, such a day as the Lord Treasurer and the Barons shall appoint.

After a day is set down for the hearing, the Plaintiff must serve the Defendant with a *Subpœna ad audiend. Judicium*, retornable at the day and place appointed for the hearing: and in the meane time, the Solicitor ought to abbreviate the pleadings, and prepare the breviats of the pleadings and proofs of each side, throughly to inform his Council.

Now at the day appointed for the hearing, the bill of causes is to be made ready, and to be delivered to the Lord Treasurer, Chancellor, and Barons in Court, wherein the causes are to be set down in order as they were appointed to be heard; and so the Court doth call for them as they lye in the bill; and if both sides be ready to proceed to hearing, the Plaintiffs Council opening the material points in the bill, and the Defendants Council opening his answer, and after debating thereof on both sides, for the full opening to the matter in question, the Plaintiff is to make his proofs, which are to be read by his Attorney in Court, and the defendant is to do the like: whereupon the Court doth judge *secundum allegata & probata*; as if there be good matter alledged and

set forth in the bill and replication, and sufficiently proved there by confession of the defendant in his answer, or by witnesses, records, or other evidence which cannot be disapproved by the defendant, the Court doth make a decree for the Plaintiff: but if there be good matter set forth, and not proved; or good matter proved, but not set forth in the pleadings, the defendant and the cause is dismissed.

Sometimes the cause is dismissed upon opening for want of sufficient matter, or for that it is merely triable at the common Law; and sometimes when there is both matter of Law and equity, the matter of Law is referred to tryal at the Exchequer-bar, and the equity of the cause is retained until the hearing.

And sometimes when the question is touching accounts and reckonings which are intricate, the cause is referred to Auditors or Merchants by commission to examine and try the same, and to mediate and end, and determine of their doing if they can, or else to certify the Court, whereupon the Court may further proceed.

Or if the question be concerning the possession of any Lands demanded by the Plaintiff, which lye intermingled and dispersed with and amongst the defendants lands, and by reason of a long and joynt occupation cannot well be known or distinguished the one from the other; in such case, when that it appeareth to the Court that the Plaintiff hath and ought to have land so intermingled, the Court doth award a commission to Gentlemen in the Country where the land lyeth, to enquire the certainty of it, and to set out the metes and bounds of the same, and to certify the Court thereof, who will decree accordingly; and in suchlike cases references and commissions are awarded.

If at the day of hearing the plaintiff be ready, and the

the Defendant maketh default, the Plaintiff must make *affidavit* or procure *affidavit* to be made of the serving the Defendant with process *ad audiend. Judicium*, and then the Court will proceed to hearing; And after the Plaintiffs Bill is opened, the Defendants answer is to be read, and the Plaintiffs proofs; whereupon the Court will decree or dismiss the cause, or otherwise order that shall seem fit: but in such a case the Court doth not use to make an absolute decree, but give a day for the Defendant to shew cause to the contrary, at which day if the Defendant do come and offer to shew cause to stay the decree, and thereupon the Court doth proceed to a further hearing, the Plaintiff ought to have costs for his double attendance caused by the Defendants default.

Likewise at the day of hearing if the Defendant do attend, and the Plaintiff maketh default, the Court will dismiss the Defendant with costs, except good cause be shewn to stay that, and to put off the hearing till another day; and then if the hearing be put off, the Defendant is to have costs for his first attendance.

When the Defendant is once served with process *ad audiend. Judicium*, although the cause cannot be heard at that day appointed in the *Subpœna*, or probably in that Term, for multiplicity of business in the Court; yet he must attend without any more process untill the cause be heard, so long as the cause is continued in the Bill of Causes: but if the plaintiff be negligent and will not endeavour to procure a hearing, but seek to continue the Bill, to keep an Injunction on foot to stay the Defendants course at Common Law in any other Court, the Defendant may move for a Dismission of the cause, and that the Injunction may be dissolved, and that he may have costs for his unjust vexation.

After

After the Defendant hath answered the Plaintiff's Bill, if the Plaintiff delay the prosecution thereof, the Defendant may move to be dismissed with costs: whereupon a day will be given to the Plaintiff to shew cause; but usually in three Terms after answer, if the Plaintiff do not reply, they dismiss the Defendant.

After a cause is brought to a perfect issue, so that it is ready for hearing, if the Plaintiff then delay his prosecution, or be negligent to procure a hearing; the Defendant if he will may procure the cause to be set down for hearing, and may serve the Plaintiff with a *Subpœna ad audiend. Judicium*. And at the day appointed for hearing, the Plaintiff may appear and proceed to hearing, if he will; but if he will not, the Defendant is dismissed with costs: and if there be any Injunction or order to stay his proceedings at Law against the Defendant, it is dissolved.

If a Defendant die after he hath answered, and before the cause be determined; the Plaintiff may exhibit a Bill of Revivor against the Heir, Executor or Administrator of the Defendant, as he finds cause: and in a Bill of Revivour the Defendant shall answer without Oath, because the intent of his answer is only for him to submit himself unto the former proceedings; and upon his answer, the former proceedings are revived, and shall stand in the same force as they did against the former Defendant that died: and the Plaintiff and Defendant may proceed further to bring the cause to hearing, in the same manner as the Plaintiff and first Defendant should have proceeded if the first Defendant had lived.

In like manner when a Plaintiff dyeth a cause depending, may his Heirs, Executors or Administrators revive the cause by Bill of Revivor, as they find cause.

After a decree is made and past against the Defendant, if he hath other matter which was not in issue in the cause decreed, which he supposeth will be sufficient to overthrow the decree, he may exhibit a Bill of Review upon that new matter to reverse the decree: but he must perform the decree, and yield obedience to that, or else he runs into contempt: and if the Bill of Review do not contain good and sufficient matter, the Defendant may plead the former matter decreed in Bar of the proceedings upon the new Bill; and that is not sufficient for the Plaintiff in the Bill of Review, to produce new proofs, be they never so good, that were not produced before; but the matter must not be such matter as was in the issue before.

A Defendant may also exhibit his Bill of Review of error in the proceedings, whereby the former decree was obtained)

Sometimes the principal question between the parties is such, as admitting the truth of both sides, yet it is doubtful in Law to whom the right belongeth, so as the Court cannot make a decree untill the matter in Law be determined. Whereupon a case in Law is to be drawn and agreed upon of both sides: and if there be any matter of fact necessary to be proved for the making of the case, Witnesses may be examined upon Interrogatories for that purpose; and when the case is agreed upon, several Copies must be delivered to the Lord Treasurer, Chancellor, and Barons, and is to be argued on both sides when and as often as the Court shall think fit, and so be determined by decree or otherwise.

When publication is surreptitiously or overhastily gotten by the Plaintiff, before the Defendant hath fully examined his witnesses, the Court upon *Affidavit* by the Defendant that neither he nor any for him hath seen the depositions of the Witnesses, will admit him

him to examine such Witnesses as he hath to examine.

Upon hearing of a cause, the Court doth allow all Bills and Answers, and other pleadings, and orders and decrees of the Chancery to be read for evidence, without any order for their allowance; but no depositions of witnesses taken in any other Court, nor in another cause in the same Court, without special order.

And sometimes it hath been (although seldom) after publication of both sides, the Court doth allow them to examine Witnesses (*ad informandum Conscientiam*) but in this case the depositions that be taken are not to be published, but only seen by the Court.

After a decree is entred, that may be inrolled and exemplified at the instance of either party, or of any other desiring it.

If the possession of any Land be declared against the Defendant, the Plaintiff may have an Injunction directed unto him, and all that claim under him, commanding him and them to remove from the possession, and to yield the same to the Plaintiff and his assigns: and if the Defendants disobey that, upon *Affidavit* made thereof, the Court doth usually grant an Injunction directed to the Sheriff, to remove the Defendants, and put the Plaintiff in possession.

If a Decree be in any thing disobeyed, either by the Plaintiff or Defendant, or any other by their procurement, upon *Affidavit* made thereof, an attachment is awarded against them that made the contempt, and further process of contempt, untill the party disobeying be brought into the Court to answer such his contempt: and upon his appearance, if he deny the contempt alledged against him in the *Affidavit*, he must be examined upon Interrogatories

to be exhibited by the prosecutor of the contempt, before one of the Barons, which must be upon the points mentioned in the *Affidavit*; and he must be enjoined by the Court to attend and appear from day to day untill he be examined, and not to depart without License of the Court: or if the Court think fit, he is to be bound by Recognizance to that purpose.

After he is examined, if he have confessed sufficient matter of contempt, the prosecutor must move the Court to appoint a day to hear his examinations; at which day both sides are to attend, and such of the examinations are to be read as are material: whereupon if it appear to the Court that he is in contempt the Court will commit him to the Fleet, and fine him, or not, as the case requires; and he is to remain in prison during the pleasure of the Court, and untill he yield obedience, and submit himself to the Court to perform the decree, or enter into Recognizance to perform the same, if the Court so think fit, and to pay such costs to the prosecutor as the Court shall tax.

But if upon his examination the Defendant deny the contempt supposed against him, he may move the Court to be discharged with costs: whereupon the prosecutor may desire to examine Witnesses to prove the contempt either in Court or by Commission; and if the prosecutor take a Commission, the Defendant may joyn in Commission, to see a due examination of the Witnesses; but not to examine any Witnesses without special order of the Court; after which examination, the Court doth appoint a day of hearing, at the motion of the prosecutor, or if the Defendant, to convict or discharge the Defendant as the case upon hearing shall appear.

The same course is held for punishing or discharging of contempts supposed against the process of the Court, if the case requires.

After the Defendant hath answered, the Plaintiff may by order of the Court amend his Bill if cause require it, upon payment of costs.

In case of extraordinary contempts, the Court doth sometimes send a Messenger, or Serjeant at Armes to apprehend and bring in the offender, if he cannot be taken by the ordinary Process of contempt.

Thus much will direct our *Solicitor* in the Equity-practice in this Court: I shall here set down the Articles of the late Court of Augmentations, and then conclude with the practice of the Office of Pleas.

SECT. III.

The Articles of the late Court of Augmentations and Revenues of the Crown annexed to his Majesties Exchequer at Westminster.

I. **A**LL Honours, Lands, Tenements, Possessions, and all other Hereditaments, which are within the survey, rule and order of the Augmentations of the Crown, and the arrerages of the same, shall be received, levied, and gathered from henceforth by the Sheriffs of every Shire and County within the Realm of England, where the said Honours, Castles, Manors, Lands, Tenements, and other Hereditaments do lie, or by any other person or persons, that shall be appointed by the Lord Treasurer, and the Court thereafter; which receipt the said Sheriff of every County, or other accomptant so appointed, shall contain and pay the Revenue thereof, at the receipt of

the Exchequer, in manner and form as hereafter shall be declared.

2. *Item*, The Revenues in *Wales* shall be received yearly by the Chamberlain there, or by any other person or persons that shall be appointed by the said Lord Treasurer and the Court, as is aforesaid, the same to pay at the Receipt aforesaid, and to be bound by Recognizances for the payment thereof according to the Direction of the Court.

3. *Item*, The said Sheriffs or other accomptants to have a Tally of Record, yearly, according to the Rule of their several charges, if it shall be thought fit by the Lord Treasurer, Chancellor, Chamberlains and Barons, or by three of them, whereof the Lord Treasurer to be one.

4. *Item*, That every Sheriff of *England*, or other accomptant, shall be charged with the Revenues aforesaid, in his accompt from *Michaelmas* to *Michaelmas*, according to the ancient Laws and Customes of the said Exchequer.

5. *Item*, All such sums of money as shall be due at the Feasts of the Birth of our Lord, The Annunciation of our Lady, or at the Feast of *Easter*, for the said Revenues, with the arrearage depending upon all former accompts, shall be charged in to the said Sheriff, or other accomptants in their views, and shall make the said view before the Feast of the *Ascension* of our Lord yearly, and to pay all such sums of money as shall be found due upon the same before the Feast of *Pentecost* then next ensuing; and where they be payable at *Pentecost*, those Rents to be paid before the Nativity of *St. John Baptist* then next following.

6. *Item*, If any former accomptant or debtor hath paid any sums of money at the receipt aforesaid, before the making of the view aforesaid, that
then

then the said Sheriff or other accomptants shall be discharged by the payment thereof, being of record, without any further suit or charge in the said view of accompt.

7. *Item*, That all such sums as shall be due for the said Revenue at the Feast of *Michaelmas* and *St. Martin*, with the arrearages due upon all former accompts, shall be paid at the receipt of the Exchequer by the Sheriffs or other receivers or accomptants, (that is to say) as much as shall be due at *Michaelmas*, before the Feast of the *Nativity* of our Lord God; and as much as shall be due at *St. Martin*, to be paid into the receipt before the twentieth day of *February* then next ensuing; or otherwise make declaration unto the said Court of Exchequer of the payment thereof, by vertue of sufficient Warrant.

8. *Item*, That every Sheriff and other accomptant shall appear to his accompt in his own proper person, or by his sufficient Deputy authorized in writing under his hand and Seal in *Hilary-Term*, and there to take an Oath, according to the ancient usage of the said Exchequer, and the same Warrant in writing to be delivered into the Treasurers Remembrancers Office, and there shall be filed and entred of Record, without taking any Fee or reward for the same.

9. *Item*, The said Sheriff, or other accomptant or accomptants, or his or their lawful deputy or Attorney, after his or their appearances to make their accompts for the said Revenues before the twenty fourth of *February* then next after, and the same auditor taking the said accompts, shall deliver the accompts ingrossed in parchment, authorized and allowed by the hands subscribed of the Lord Treasurer, Chancellor, Vice-Treasurer, and Barons of

the said Exchequer, or by three of them at the least, whereof the Lord Treasurer or Vice-Treasurer to be one; and with the hand of the said Auditor likewise subscribed, into the Office of the Pipe, within the said Court of Exchequer, before the twentieth day of March then next followeng, as further process thereupon may be made if cause shall require.

10. *Item*, That the Lord Treasurer, Chancellor, Chamberlains, Under-Treasurer, and Barons, or three of them, whereof the Lord Treasurer is to be one, and in his absence the Under-Treasurer, shall have full power and authority, by their discretions, from time to time, to give allowances as well to the Farmers and accomptant for the yearly reparations, and other allowances, as also to every person and persons that shall be hereafter appointed by them or by the most part of them, for the doing and executing of any process, or other thing concerning the premises.

11. *Item*, All Records of the said Court of the Augmentations that do concern execution of any process for Indentures, Recognizances, Obligations, and all Records of Books of Orders and Decrees concerning the premises, shall remain in the charge of the Kings Remembrancer of the said Exchequer, in such place or places as by the Lord Treasurer and the Court shall be from time to time appointed.

12. *Item*, That all Commissions for Woodsales, and Commissions for survey of any part or parcel of the premises, shall be made hereafter by the Treasurers Remembrancers of the Exchequer.

13. *Item*, All Records and Books of the said Court of the Augmentations, of the Inrollment of Leases, and the counterpains of the said Leases, and Warrants for making the same, and all accompts that shall remain in the said Court concern-
ing

ing any thing or matter within their old order and Survey of the same, shall be and remain in the charge of the Clerk of Pipe of the said Exchequer, in such place as the said Lord Treasurer and Court shall award, so that process may be made upon them *unde superius* as long as the case shall require.

14. *Item*, That all sealed Evidences, Rentals, Court-Rolls, and other writings and miniments whatsoever, touching the said Revenues, be placed in the Treasury house that shall be appointed for that purpose by the Lord Treasurer, and others the Head Officers of that Court.

15. *Item*, Accounts to be taken every year, and the ingrossments in form as aforesaid, to remain in the charge of the Clerk of the Pipe, in such place as shall be appointed by the Lord Treasurer and other the Head-Officers of that Court, amongst the Evidences and the Records of the Revenue of the Land, severed from the antient Records of the Exchequer.

29. *Item*, That all Stewards of Letts and Courts shall yearly double their Court-Rolls in Parchment, and certifie one part thereof, subscribed with the hand of the Receivers before the *Audit* into the Court of Exchequer, wherein should be contained the Fines made among the customary Tenements, the Heriots, the Amerciaments, the Woodsales, and other Casualties, with a Declaration of needful reparations, presented by the Homage, making thereof a Streat to the Sheriffs of the Shire, or to such other Accomptant as shall be appointed to the receipt thereof, as he may thereupon make his receipt and payment upon the end of his account; and that no Reparations be made at any time, but by warrant from the Court, under three of the Officers hands, whereof the Lord Treasurer or Under-Treasurer are to be one: And
the

the other part of the double of the said Court-Rolls to remain in the Lordship where the said Courts be kept.

17. *Item*, No Woodsales shall be made without a Commission from the Lord Treasurer, and two such others of the Court as he shall call to have at that time; and in his absence, the Under-Treasurer, calling to him two of the said Court.

18. *Item*, That no Steward, Bailiff nor Woodward be admitted, but only by the Lord Treasurer, Chancellour, and Chamberlains, Vice-Treasurer and Barons of the said Exchequer, or three of them at the least, whereof the Lord Treasurer or Under-Treasurer to be one of the same Officers, to pass under the Seal of the Exchequer, by the Lord Treasurers assignement under his hand: and the same Bill or Bills to be made in the Office of the Pipe, there to be entered of Record, filed and kept for the yearly allowance of the Fees, Wages, and Rewards of any person or persons as hereafter shall be appointed to any of the said Offices.

19. *Item*, The accounts of the Hamper, the Butlerage, the Staple of *Callis*, and the Revenues of the Courts there, the Prizes, the Mints, the great Guardrobe, the customes of the Ports of *Chester*, *Berwick*, and *Callis*, to be yearly taken and ingrossed by the Auditors of the said Exchequer, according to the ancient Laws of the said Court, and as heretofore they have been accustomed, before the Erection of the Court of Survey and Augmentation of the Revenue.

20. *Item*, Where in times past there hath been continually six Auditors serving in the said Court of Exchequer, whereof at this day, and of long time, hath been remaining but five, having ten pounds for every year for his Fee: It is now ordered, that there

there shall be seven, to have yearly twenty pounds for his and their Fees, and that every of the said Auditors be personally resident upon his Office.

21. *Item*, That every Teller of the Receipt be likewise attendant upon his Office to execute the same in his own person, and not by Deputy, upon the loss of his Office and Fee.

22. *Item*, For that the order, establishment, and uniting of this Court, be perfectly established, with exercise, proof, and experience of the same; the Kings Highness is pleased that the Lord Treasurer, and the said Court of Exchequer, should have full power and Authority from time to time, to amend, reform, and correct any Clause or Article aforesaid, and to add to, or diminish any thing that shall be found necessary for the amendment of the same; and to make further orders from time to time, as to the Court shall be thought expedient,

23. *Item*, That all Rents and Services reserved, be answered in the said Court of Exchequer, and paid in the said Receipt; and likewise all Debts, Arrearages of Accounts, and other Duties, and sums of money, which have been answered in the said Exchequer, be paid in the said Receipt.

24. *Item*, To call into the Court of Exchequer all persons accountable, in such manner and form, as they ought to have been called in the said Court of Augmentation.

25. *Item*, That all Records of late belonging in the said Court dissolved, and belonging to the same Court, shall be recorded to the same Court of Exchequer, and of the same force and strength, as they were in the said late Court dissolved,

26. *Item*. A Leagure to be made of all Specialties brought into the said Court.

27. *Item*, That all Letters Patents, Grants, Leases,

Leases; and other assurances made by the said late Courts dissolved, shall be of the same force and strength as they were in the said late Courts dissolved.

SECT. IV.

The Articles of the uniting of the late Court of first Fruits and Tenths, to the Court of Exchequer at Westminster.

1. **H**ER Highness doth ordain, that all the Records of the said Court of the first Fruits and Tenths shall be hereafter placed in the said Exchequer, and shall be of the same force and strength as they were in the said Courts of the said first Fruits and Tenths.

2. *Item*, Her Highness is pleased, and ordaineth that there shall be in the said Exchequer, a certain Office, called the Office of the Remembrancer of the first Fruits and Tenths, which Office for divers and sundry great considerations, for and at the first erection only, shall be exercised by two persons by her Highness to be nominated, which shall joyntly exercise the same Office during their lives; and after the death of one of them, the said Office to be exercised by the survivor of them.

3. *Item*, That all Records belonging to the same Court of the first Fruits and Tenths shall be in the charge and keeping of the said Officer.

4. *Item*, The said Officers shall make and deliver the true values of all spiritual promotions, dignities and benefits within the Realms of *England* and *Wales*, and other the Queens dominions, to such persons as shall sue for them, taking for the same

like Fees were wont to be paid before the dissolution of the first Fruits and Tenths.

5. *Item*, The same Officer shall take Compositions of the first Fruits, of every Arch-bishoprick, Arch-deaconry, Deanry, Prebendary, Parsonage, Vicaridge, and of every other Dignity, Office, Benefice, Promotion spiritual aforesaid.

6. *Item*, The same Officer to make all Writings obligatory, Indentures, and all other Writings concerning the same first Fruits and Tenths, and shall see the same sealed and delivered by the parties to the Queens Highness use; and also shall make acquittances and other discharges to such as shall pay their money in hand, without making bonds for the same, taking Fees accustomed of the parties for the same.

7. *Item*, The said Lord Treasurer to call such persons as shall please him to his assistance, at the declaration of the aforesaid accounts, or any Officer or Auditor of the same Court that to them shall be thought meet for the passing of the same accounts.

8. *Item*, The accomptant or accomptants that shall not come to determine his or their accounts in form aforesaid, his or their goods and Lands shall be seized to the Queens use *nomine districtionis*, and shall lose the benefit thereof, and shall have the allowance of the same in discharge of his debt, according to the antient custome of the Exchequer.

9. *Item*, All *Scire facias*, Attachments, and writs of distresses for debts or accounts concerning the premises, shall be made by the Treasurers Remembrancer from time to time, as to the discretion of the Court in that behalf shall be thought meet and convenient, according to the ancient custome and course of the Court.

10. *Item*, All Letters Patents of any Manors, Lands, Tenements, or other Hereditaments, or concerning any Annuities, Pardons, or other such like,
shall

shall be inrolled in such Office of the said Exchequer; as by the discretion of the Lord Treasurer, and the said Court shall be appointed; the parties to pay Fines according to the Ordinance and Statute in that behalf provided.

11. *Item*, All Recognizances of payments of any Farm, or any Debt of or for any part of the premises, to be inrolled in the Remembrancers Office; and to be taken in the open Court, when the Term is open; and if the Term be not open, then by the chief Baron; and in his absence, by any of the Barons, and by force of a *Dedimus potestatem*, if necessity shall require; taking for every such Recognizance taken out of the Court six shillings eight pence only, whatsoever number of persons be bound in the same: and for the entry of the same Recognizance, the said Remembrancer shall have and take for his Fee, of and for every Recognizance of four pounds and upwards, three shillings four pence; and no other or more Fees to be taken for a Recognizance, whatsoever number of persons be bound in the same.

12. *Item*, That the said Sheriffs or other Accomptants, shall yearly pay all such sums of money as shall be due to any person or persons, for any Annuities, Fees, Pensions, issuing or going out of any of the premises according to their Grants allowed and inrolled, unless they have special commandment by the Court to the contrary.

13. *Item*, That the Farmers and Lessees shall be bound to the Queen, and by Recognizance, to perform their covenants in their Leases, in such form as by the Court shall be ordered.

14. *Item*, All Warrants for Leases to pass by the Lord Treasurer: and if the yearly Rent of the Land to be letten, shall be above the sum of forty shillings by the year, then the same Lease to pass under the
great

great Seal of *England*; and if the Rent be above the value of 7 l. 13 s. 4 d. then every such Lessee to pay the Fees of the Signet and privy Seal, as heretofore in like cases hath been accustomed: and if the Land to be letten do pass not the yearly Rent of 4 s. then the Lease to pass the Seal of the same Court of Exchequer, paying 6 s. 8 d. to the Queens use, 3 s. 4 d. to the Chancellor of the said Court, and 4 d. to one appointed to attend the Seal, for his attendance and wax; and the said Leases under the value of 40 s. to be alwayes made by the Clerk of the *Pipe*, and filed together for every year by themselves, and there to be inrolled within the said Office, as the said Clerk of the *Pipe* may report the Indentures for the more surety of the parties, taking for the Inrollment as shall be ordered by the Court.

15. *Item*, The said Lord Treasurer shall not have any authority to make any Lease in reversion, of any part or parcel of the premises, or of any Woods, or any Manors in gross for the Term of certain years, without the Queens Highness special Warrant to him to be directed in that behalf; and then Warrant to be made by the Lord-Treasurer of *England*, in form aforesaid.

16. *Item*, The Lord Treasurer taking to him the advice of the Chancellor, Under-Treasurer, and chief Baron, or two of them, shall have authority to assess Fines for any Leases of any part or parcel of the premises, to be made by the said Lord Treasurer in form aforesaid.

17. *Item*, The same Officer to write and make all manner of Process, Commissions, entries, books, Judgements and Decrees of the Court, with all other writings and miniments whatsoever, as well for the arrearages of such first Fruits, as for all Tenths and Subsidies

subsidies of the Clergy due to her Highness Heirs and Successors by such special persons, their sureties, Farmers and occupiers, taking therefore such Fees of the parties, as were used before the dissolution of the same Court of first Fruits and Tenth.

18. *Item*, All Certificates returned upon any Commission issuing out of the said Court of Exchequer, concerning any first Fruits, Tenth, or subsidies aforesaid, the valuation of any Benefice, or Promotion Spiritual, omitted in the first Taxation, or otherwise, for any matter accustomed to be determined in the said Court of Exchequer, in the charge of the said Office, and there to be ordered.

19. *Item*, All such Certificates as the Arch-bishops and other Collectors of the Tenth and Subsidies of the Clergy made against the Incumbents refusing to pay their Tenth and Subsidies, being exhibited red before the Court of Exchequer, and by them allowed, shall remain in the charge of the said Office of the Remembrancer of the first Fruits and Tenth, in the place to be appointed for the same, to the end that Process may be made against such Incumbents as be in them contained.

20. *Item*, That the same Officer shall yearly make a Leager of all compositions of the first Fruits, taken and to be taken, wherein shall be contained the name and Shire of the Benefice so compounded for, the sum and name of the Incumbent,

SECT

SECT. VI.

The Office of pleas belonging to his Majesties Court of Exchequer at Westminster.

THIS is the Office of Common Law belonging to his Majesties Court of Exchequer, and herein the course and method of proceeding is in most things agreeable to the Common Law proceedings in the Common Pleas and Kings Bench.

Their leading process is either a *Quo minus* or a *Subpœna*; the *Quo minus* is a Writ to take the body of the Defendant, as the *Capias* in the Common Pleas, and *Latitat* in the Kings Bench. Now this Writ was anciently granted to such persons only who were either Tenants, Debtors, or some ways accomptant to the King; and so the Writ concludes that the Plaintiff for the default of the Defendant not giving him satisfaction, is the less able to satisfie the King his debts which he oweth him at the Exchequer.

But now at this day the Practice of this Office is grown general in all cases almost by the *Subpœna*, which being easie for the Plaintiff, without being subject to the trouble and charge of Bailiffs, brings very much business into this Office, and chiefly in *Wales, ubi breve domini Regis non currit*, where no Writ out of the Kings Bench or Common Pleas runneth, but only the *Capias utlagatum*.

Here are belonging to this Office only four Attorneys, who manage all the business between the Plaintiffs and Defendants coming unto them. In the Forms of the Declarations they much imitate those of the Kings Bench, only with this difference, that

E c

where

where the Kings Bench-men begin their declaration supposing the Defendant to be in custody, these suggest the Plaintiff to be debtor unto the King, beginning their declaration thus.

ff. A. B. Debitor domini Regis queritur versus C. D. &c. And they conclude their declaration, after they have laid their damages, with a *Quo minus*, whereby the Plaintiffs is the less able to satisfy the King his debt which he oweth him at his Exchequer, &c.

In this Office all the Officers of the Court of Exchequer, their Clerks and Servants, all the Kings Tenants and Farmers of any of his Lands and Tenements, and all manner of accomptants of the Exchequer, are privileged to sue and implead one another, or any stranger, in any action of the case, debt, detinue, trover, trespass, covenant, conspiracy, ejectment, or the like, as are prosecuted in the Kings Bench or Common Pleas.

And in this Office are prosecuted all such suits as are removed out of any Court at *westminster* by the red book, or out of any Court of Record elsewhere in *England* by any writ of privilege; for such persons are privileged to sue and be sued there and no where else, if they take the benefit thereof in time.

For the generality of their proceedings here, they follow much the Rules of the Kings Bench and Common Pleas; and after Judgement obtained here either by *nilil dicit*, or after a Verdict by *nisi prius*, the execution is *Capias ad satisfaciend.* or *fiere facias*, as at other Courts of the Common Law.

In this Court in some cases the Defendant at his appearance must put in sureties to answer the matter, which sureties must enter into recognizance that the Defendant shall render &c. if he be condemned in the suit for which they stand bound.

This bail or recognizance must be always taken before

before a Baron in the Court ; and not in his chamber, as is usual in other Courts.

SECT. VII.

*A distinction of the Exchequer-Offices of the
superiour and inferiour Court of Exchequer ;
and first of the superiour Court.*

THe superiour or upper Court of Exchequer is called *Scaccarium Computorum*, and hath peculiarly proper thereunto these Officers.

First, the Lord Treasurer and Chancellor, whose places are in the gift and disposal of his Majesty, and are as ancient as the Exchequer.

The Under-Treasurer or Vice-Treasurer ; who began in the time of King Henry the seventh, at which time the Lord Treasurers Remembrancer was made Vice-Treasurer, and whether of the Kings nomination or the Treasurers, is not known : but in the time of Hen. 8. Sir John Baker was made Vice-Treasurer, and had a Patent from the King under the great Seal for the said Office, and since it hath continued in the Kings disposal.

The Lord Chief Baron, and the other three learned Barons, and the Puisne or Cursitor-Baron, are all likewise in the gift of the King.

The two Chamberlains had in old time great authority in the Exchequer, and have kept the Keys of the Treasury-Coffers, and were privy to the *pelles* of *introitus* and *exitus*, of the which each of them are to keep a controlment at this day ; and antiently no money was issued out of the receipt without their

privity, their names being still continued in all privy Seals, for payment of money out of the Receipt, though it is now delivered without them: their place in Court is next to the Barons, and they may sit and keep their places daily in Court, if they please to attend and hearken to the causes there without any intermeddling in them; but at the election of Sheriffs in *crastino Animarum* they use to be present, and may say their opinion for the preferment or stay of men to be Sheriffs, as the Barons and Justices do: antiently their places were of Inheritance, but are now in the Kings gift.

The Kings Majesties Attorney, and Solicitor general have alwayes been accounted amongst the Officers of the Exchequer, though they have audience and come within the Bar in all other Courts: their places are in the Kings gift.

The Kings Remembrancers Office (whereof we have spoken largely already) hath been alwayes in the gift of the King ever since the erection thereof.

The Treasurers Remembrancer, likewise treated of already, now is, and for a long time hath been in the Kings gift.

The Office of the Clerk of the Pipe, or the ingrosser of the great Roll, was at the Lord Treasurers disposal till about the time of King Edward the third, since which time it hath continued in the gift of the King.

The Office of the controller of the Pipe now is, and alwayes hath been in the gift of the Chancellor of the Exchequer, the said Controller being antiently stiled *Clericus Cancellar.* and the Clerk of the Pipe *Clericus Thess.* and *Cancellar.* was and is still written on the controllers Roll, and *Thess.* antiently upon the great Roll, to distinguish between them.

The Office of the Remembrancer of the first
Fruits

Fruits and Tenths is in the Kings gift.

The Surveyor general of his Majesties Lands, &c. in his Majesties disposal.

The Clerk of the Pleas is in the gift of the Chancellor.

The forreign Apposer, and Clerk of the Estreats, in the Lord Treasurers gift.

The two Auditors of the imprests in the Kings gift.

The seven Auditors of the Revenue, who have in charge before them the Revenue annexed to the Exchequer, upon the dissolution of the Augmentations Court in the first year of *Queen Mary*, and before them the Receivers general make their accompts, according to their severall assignments, by their Letters Patents under the great Seal from the King.

The other busineses which belong to their places As they are Auditors, or Clerks in the Exchequer for taking the accompts of Sheriffs, Escheators, Customers, Controllers, Collectors of subsidies, the Offerers accompts, and the like, they have them by assignments from the *Mayshal* of the Exchequer, from time to time in open Court, and so entred in his book, that no Accomptant may chuse his Auditor: all their places are in the Kings gift.

The Auditor and Receiver general of the Dutchy of *Cornwal*; are all in the Kings gift in the vacancy of a Duke of *Cornwal*.

The Receivers general of the Kings Revenues being about two and twenty, are also in the Kings gift.

The Surveyor of the Green-wax is also in the Kings gift; this Office was erected in the time of King *James*, upon the advice of the Lord Treasurer, Chancellor, Under-Treasurer, and Barons of the Exchequer, and the learned Counsel, as appears by a table set up in the Exchequer setting forth the duty of his Office.

The two Deputy Chamberlains, being joyners of the Tallies, are in the two Chamberlains gift.

The Marshal of the Court is now in the gift of the King.

The two Parcel-makers were ordained in the time of *Richard* the second, to make the parcels of ail Escheators accompts; but now their Offices are out of use.

The Clerk of the *Nichils* is in the Chancellors gift.

The Sealer of the Court likewise in the disposal of the Chancellor.

The chief Usher of the Exchequer is he that by inheritance hath the keeping of the Exchequer-Court, the Exchequer Chamber, and the house, with all the appurtenances, where the Court useth to dine when they sit about the Kings business; he maketh provision for all the necessaries both of the Exchequer, and of the Receipt, and hath allowance thereof at every *Liberate*; and seeth to all places of the Court that all doors, chests, records, and things be in safety from fire, water, or other spoil or damage; and hath the over-sight of the rest of the Ushers, and the six ordinary Messengers of the Court, that they make a true delivery to the Sheriffs, and all others of the Kings process.

The two Praisors of the Court concerning uncus- tomed goods, in the gift of the Under-Treasurer.

The four ordinary Ushers of the Court, in the said chief Ushers gift.

The six ordinary Messengers of the Court, who carry the Kings Process to the Sheriffs, are also in the said chief Ushers gift.

Thus much of the Offices in the superiour or upper Exchequer.

S E C T. VIII.

The Offices in the inferiour or Lower Court of Exchequer, commonly called the Receipt.

THe four Tellers of the Receipt, (whose Offices are in the Kings gift,) do receive all the Kings monies which are paid into the Receipt by Sheriffs, Customers, Farmers, and other Debtors and Accomptants whatsoever, and do write a Bill thereof in Parchment, expressing therein the sum by them received, and of whom and for what; which Bill they put down through a Trunk made for that purpose into the Chamberlains Court, for a Tally to be stricken for the discharge of the party that payeth the money.

The Clerk of the *Pell* keepeth the *Pell* in Parchment, called *Pellis Receiptæ*, wherein every Tellers Bill with his name on it is to be entred; and under every such Bill when it is entred, *Recordatur* to be written in open Court for a controlliment to charge the Teller with so much money as in the said Bill is set down.

He also anciently kept another *Pell* called *Pellis Exitus*, wherein every dayes issuing of any the monies paid into the Receipt, was to be entred, and by whom, and by what warrant, privy Seal or Bill it was paid: this Office is in the Lord Treasurers gift.

The Auditor of the Receipt taketh up every Tellers parchment Bill, after it is marked *Recordatur* by the Clerk of the *Pell*, and entred by the Controllers of the *Pell* and fileth it upon a File; and then his Clerk that is called *Scriptor Talliar. & Contratall.* writeth double upon every Tally, the whole Letter of the Tellers Bill, that when the Tally is cloven, both

the Foile and the Stick thereof may have like Lettes upon them.

The said Auditor doth also enter all the said Parchment Bills in a Book, which is to him as *Pellis Receptæ*; and by these he doth see what every Teller receiveth weekly, and of whom, and maketh Certificate thereof to the Lord Treasurer, as he is commanded, how all the money of the Receipt particularly is paid or received; and to that end maketh to every of the Tellers a *Dibentur*, before any of them can pay any money out of the Receipt, be it upon Fees, privy Seals, or any warrants whatsoever.

He likewise keepeth the Lord Treasurers Key of the Treasury, where the ancient Leagues of the Realm, the perambulations of the Forrests, the Records of *Jusliciar. Itiner.* and divers other ancient Records of the Kings Bench and Common Pleas do lie, both in the old Court of Wards, and in the old Parliament-House, in the Cloister at *Westminster*, where no Search can be made, without the said Keys come, with both the Chamberlains Keys thereof; where also the black Book of the Receipt *de necessariis Saccar. observanciis*, agreeing in that point with the red Book in the Kings Remembrancers Office, is kept. This Office is also in the gift of the Lord Treasurer.

The two Under-Chamberlains be both the Chamberlains Deputies for the Receipt, and their places in the said Chamberlains gift: the Tallies so written upon as before, are delivered to them, and the one of them holding the Tally, and the other the Cleaver and the Mallet, cleaveth the Tally in the midst; and then one of them taking the Stock, and the other the Foile, and the Clerk of the Pell and his contrrollers their Books, wherein the said Tellers Bills are recorded, the Cleaver saith *Exam.* and readeth the
Stock

Stock aloud; and his fellow the Clerk of the *Pell*, and his controullers, seeing the Stock, to agree with them all, the said Stock is delivered to the party that paid the money for his discharge, and the Foile cast into the Chamberlains Chest, where they keep all their Foils, together with their Knives, and the Book called *Doomsday book*, untill the Joyners fetch away the said Foils, which they keep in their Office, in the upper Exchequer, to be rejoyned and examined with the Stock delivered to the party for his discharge, which is not to be allowed of upon Record in the Pipe by the first Secondary there, untill the same be so rejoyned and delivered in Court to the said Secondary by the said Joyners, with their mark testifying that by their examination the same agreeth with the Foil in their custody.

And in the said Chest are also kept the Keys of the Treasury under three Locks, whereof the Auditor of the Receipt hath one Key, belonging to the Lord Treasurer; the two Under-Chamberlains another Key, and the *usher* of the Receipt (whose Office is in the Kings gift,) another, who attendeth by himself or his Deputy, and is to do all things there which other Ushers ought to do, and keep the Receipt, as the Usher by Inheritance doth the upper Exchequer.

The said Under-Chamberlains make all Searches in the Treasury for any Records at the suit of the parties, and copies and exemplifications of the same, whereof the Fees are divided between them and the Keeper of the Lord Treasurers Key.

The Cutter of the Tallies is another Officer in the Receipt, of the Lord Treasurers gift, who provideth fitting Hazels, and cutteth them four-square, and into fit lengths, that they may the better be written upon and cloven, and casteth them into the Court, when any of them be called for, and receiveth his
divi-

Dividend-Fee (with the Clerk of the Pell, the *Scriptor Talliar.* and Under-Chamberlains) of the party that sueth it out.

The four ordinary Messengers of the Receipt are pursuivants attending upon the Lord Treasurer, for carrying his Letters and Precepts, to all the Customers, Controulers and Searchers through the Land, who are to ride and go upon any other his Majesties Messages, where the Lord Treasurer doth command them: their places are in the gift of the King. And thus we have gone through all the Offices of the upper and lower Exchequer: now a word or two of their Fees, and then we leave them to receive them.

SECT. IX.

Fees of the Exchequer.

A Subpœna to answer per Bill Anglican.	2 s. 6 d.
A Subpœna returnable in <i>Offic. placitor.</i>	3 s. 7 d.
Filing an English Bill,	7 s. 4 d.
Copies of Bills, &c. Answers, Replications, Rejoynders, every sheet.	8 d.
An attachment, <i>Alias, Pluries,</i>	2 s. 6 d.
A Proclamation <i>Cum Feod.</i>	6 s. 2 d.
A Commission of Rebellion,	1 l. 4 s. 6 d.
Their other Fees upon the proceedings by English Bill differ not much from theirs in the Chancery.	

The charge of an appearance in the Exchequer.

To an English Bill,	3 s. 4 d.
In the Office of Pleas,	4 s. 6 d.

The charge of an Inrollment in the Exchequer.

<i>Inprimis</i> , to the Baron before whom the acknowledge- ment is made,	6 s. 8 d.
To the master of the Office for his hand,	6 s. 4 d.
For every Roll,	3 s. 4 d.
To the Attorney,	3 s. 4 d.
Total.	19 s. 8 d.

SECT. X.

The charge of passing a Sheriff's account in the Exchequer.

F irst for the Tales upon payment of proffers	2 s. 8 d.
Entry of the same Tales,	1 s. 4 d.
For a <i>diem Clausit Extremum</i> , if the Sheriff be dead, whereby execution is to be returned <i>sur</i> account	13 s. 4 d.
For the warrant of Attorney,	1 s.
The entry thereof,	8 d.
Ushers Fees and poor mans box,	13 s. 4 d.
The Controller of the Pipe,	16 s. 8.
To him more in regard,	3 s. 4 d.
To the Clerk of the Pipe in part of his Fee,	1 l.
To the Lord Treasurers Remembrancer	13 s. 4 d.
To the forreign Apposer for charging of the green- wax, and making of the scrowl thereof,	1 l. 6 s. 8 d.
To him for allowance of the wages for the Justices of the peace,	18 s.
To the Clerk of the E&treats for portage of books, as you can agree.	

To

To the Under-Clerk of the Pipe for the like	<i>Similiter</i>
The president for the forreign account	<i>Similiter</i>
Fee in regard of the Justices of Assize their Diet,	10l.
To the Attorney for the entry thereof, and the other Petitions,	2 l.
To the said Attorney for his ordinary Fee for the whole year <i>ad recipiend. mandat. &c.</i>	1 l. 6 s. 8 d.
To him in regard for every Term during the account,	3 s. 4. d.
To his Clerk in regard,	10 s.
The Copy of the Sheriffs seifures according to their number.	
<i>Le.</i> seifure old,	1 s.
<i>Le.</i> seifure new,	2 s.
To the Clerk in regard of the same,	3 s. 4 d.
To the Remembrancers Office for each thereof, and for joyning the Tales of proffers,	3 s. 4 d.
On the Lord Treasurers Remembrancers Office for the like,	<i>Similiter</i>
For allowance of the same Tales of payments of money in the Receipt of the Exchequer,	1 s. 4 d.
For joyning the same,	8 d.
For allowance of the same,	1 s.
For every day that is given to the Sheriff in respect of his accompts,	6 s. 8 d.
For entry thereof,	2 s.
To the Usher for proclamation when the Sheriff is cast out of the Court,	2 s. 6 d.
For the <i>Quietus est</i> , the making and allowing of the same,	1 l.
For the Barons Fee for the taking and allowing of the forreign accompts,	6 s. 8 d.
To the same Baron for examining the Sheriffs Schedule,	6 s. 8 d.

SECT. XI

The ordinary charge for passing an accompt.

First for delivery and receipt of three Certificates,	1 s.
For delivery of the Kings part of the Books of extent to the Auditor,	4 d.
To the Auditors man for a bag,	6 d.
For a Warrant of Attorney,	8 d.
To the Teller for receiving of the money, and for making a Bill thereof,	4 d.
To the Auditors man for allowing of the Certificates,	1 s. 6 d.
To the Auditors man for ingrossing of the accompts,	4 s.
To the Barons man for receiving and allowing of the Warrants of Attorney,	2 s.
For entring of the accompt on the Kings Remembrancers side,	1 s.
For the like Entry with M.	1 s.
For the joyning of their two Tales,	8 d.
For entring of the <i>Quietus est</i> ,	2 s.
For the <i>Quietus est</i> ,	3 s. 4 d.
The Attorneys Fee,	3 s. 4 d.

It's no great digression, now we are speaking of Sheriffs, to set down part of their Fees too, as much as can be known certainly; for some of their Fees are uncertain, and in many Counties they differ.

SECT.

SECT. XII.

Fees belonging to Sheriffs.

F or the return of every <i>Cepi Corpus</i> ,	4 d.
For the return of a <i>Nihil</i> or <i>non est Inventus</i> ,	4 d.
For a <i>Nihil</i> upon a <i>Scire facias</i> some Sheriffs take	1 s.
For making a Warrant upon a mean process, if it be directed to the ordinary Bailiff, for every name,	4 d.
If to special Bailiffs, for every name,	2 s.
In <i>London</i> and <i>Middlesex</i> , and the next Counties, they take but 4 d. for a Warrant, though four names, and 4 d. a name in the Common Pleas; but in many other Counties they will have 2 s. a War- rant special or not special, and in some Counties 16 d. in some 8 d. and in some far more.	
For the Arrest of every Defendant,	1 s.
Payable by the Plaintiff.	
For making the Bond of appearance,	4 d.
They usually take	1 s.
The Sheriffs due Fee upon the Arrest of the Defen- dant is	2 s. 8 d.
And to the Bailiff that made the Arrest,	4 d.
And for the Bail-bond,	4 d.
Or if the Defendant go to prison, then the Gaolers Fee is,	4 d.
For the return of every name outlawed,	4 d.
For the return of a Proclamation,	1 s.
Return of a <i>Venire facias</i> ,	2 s.
For the return of a <i>habeas Corp.</i> or <i>disfringas</i> ,	2 s. 4 d.
They	

They take twelve shillings.

For a Replevin,	2 s.
For a Copy of a Writ.	4 d.
For the return of a <i>Recordare</i> .	4 d.
For the return of an <i>Accedas ad Cur.</i>	2 s.
For the return of a <i>distringas nuper vic.</i>	2 s.
For the allowance of a <i>Supersedeas</i> after the return of an <i>Exigent</i> ,	1 s.

They pay more now in many Counties.

For executing a Writ of Enquiry in waste.

To Enquire of damages.

To execute a Statute.

A *habere facias seisinam*.

A *Liberate* upon a Recognizance.

A Writ of Right.

De partitione faciend.

For executing an *habere facias possessionem in Ejectione firme*.

For a Writ of Dower.

For executing an *Elegit* and inquiry upon it.

For removing the overcharge of common pasture, executing a Writ of forcible entry.

For an enquiry of damages in assault, &c.

For a Rescous.

For all these, and many other such special matters,

The Sheriff hath as you can agree with him.

For serving an Execution he is allowed poundage by the Statute of *Eliz.*

There are many other Fees incident to the Sheriffs Office to receive and pay; to find them out truly *hic labor, hoc opus est*. But as you have occasion to make use of them, they will offer themselves unto you.



THE SOLLICITOR

In The
STAR-CHAMBER.

CHAP. XV.

SECT. I.

*The Antiquity and Authority of the
Star-chamber.*

STart not that I go about to bring our Sollicitor into a Court that is not in being; It was indeed about the first breaking out, or at least smoking of the late Rebellion, put down and hath ever since ceased; but the growth of extraordinary criminals being so spread, Schismaticks, hot-brain'd Phanaticks, Atheists so increasing, whispering trea-
sons

sons and Traiterous designs in every corner, yet so covertly, that no ordinary course of Law can take hold of them; horrible perjuries, frauds and cozenages daily perpetrated, do cry aloud for re-establishment of this Court to its pristine Power and Authority, which would much quiet those wicked Spirits, and purge away that Tincture of Rebellion wherewith they are so deeply Tinged, and who make use of Indulgences as encouragements to Crimes.

But here I must expect to meet with those that will say, that these things be not hid from the wisdom of the standing Law, which hath opened Remedies by way of ordinary Jurisdiction, in whatsoever evils of these kinds it shall meet with.

To these I answer, that sundry things fall out that do require an extraordinary help, and cannot be cured by the usual and common Rule and settled Justice: For although in this Realm of *England* the most part of causes in complaint, are and ought to be referred to the ordinary proceedings of the Common Law, and regular distribution of Justice; yet there have alwaies arisen, and continually will from time to time, grow some extraordinary matters fit to be reserved to a Higher hand, and to be left to the Aid of absolute Power and Authority, as I shall evidence by particularity.

1. If one who hath *Jura Regalia*, will deny original Writs, or other means of Justice.

2. If one that hath a Judicial place, shall by corruption mislead the whole course of an Evidence given to a Jury that is charged before him; or shall pre-emptorily hear the proofs of the one party, and peremptorily cut off the other, whereby the truth is not brought to light.

3. If a good and serviceable Judge, Justice, or other Officer shall be abused and baited with Libels

and Slanders which be not actionable.

4. If a Justice of Peace shall be contemptuously despised, and offered Indignities, for which no private action will be maintained.

5. If one shall attempt to coyn money, and shall be apprehended in the doing of it, before it be performed.

6. If a Counsellor at Law shall give advice standing with the learning at Law, and yet tending only to vexation, delay of Justice, or deceit of private persons, or to the defrauding of the Kings Majesty in his lawfull prerogative, or to the breaking of a good and wholsome Statute-Law.

7. If a man of behaviour and countenance shall secretly practice with others for the beating or murdering of any other person, and bringeth it not to effect.

8. If Cities, Townships, Colledges, or other Corporations, shall wilfully wrangle, and factiously rent themselves in sunder, whereby their whole body politick shall be hindred, or otherwise become unprofitable; or shall causelessly discountenance or displace any honest person of their company.

9. If one private member of such a body shall by vexation in law so unquiet the Head, and all the rest of the Company, that they cannot apply their common calling.

10. If wilfull perjury be committed by any man in case where no Indictment lyeth, nor action upon the Statute of Perjury may be maintained.

11. If a man should accuse another for speaking words against the King, and cannot maintain the accusation.

12. If a man shall wilfully offend a proclamation made by his Majesty, upon urgent cause, for a time only, and until that Law may by Parliament be provided.

13. If a Jury or Homage in a Court-Baron will pass against plain Evidence, in a plaint of *Aiel Formedon*, or the like.

14. If a grand Jury will against their Evidence find *Ignoramus*; or a Jury for life and death will find an heinous murderer to be not guilty.

15. If an Officer that ought to be sworn, will exercise his Office without any Oath taken by him. *This practice is usual amongst Phanatick Church-wardens, &c.*

16. If any one shall counterfeit the Officers hands upon a Writ of Covenant or Entry, to deceive his Majesty of his Fine; or the hand of the Attorney General for the better passing of a pardon; or shall set a Counsellors hand to a Bill in Chancery without his privity or knowledge.

17. If one that is sued upon a Title of Lease for years, be outlawed, and hath his pardon, and yet will cause his Chattels to be seized for the King, and then procure them to be committed to a friend of his.

18. If a man will suborn some to appear for others as Defendants in a criminal cause.

19. If a cozening crew shall entice a young man to the company of a woman, and cause him to be apprehended by one that pretendeth to be her husband; (*such as of late years have gotten the title of Trepan;*) and then for his redemption he sealeth them bonds, or leases of his lands, confesseth Judgements, and maketh gifts of his goods. These and infinite more of the like misdemeanors were usually punished in this Court.

SECT. II.

The Antient practice of the Star-chamber.

UPon Complaint exhibited in this Court, the Plaintiff either came freely, or was sent for by *Corpus cum causa* if he were in Prison: the Defendant was summoned or called either by writing or Messenger; by writing, as by the Kings own Letter, or by his Privy Seal directed under a pain to the party, or else to the Sheriff to take Sureties for his appearance; or by Letters missive from the Counsel. And if he made Default, then upon *Affidavit* made, by Attachment, and Proclamation of Rebellion, if the Case required it.

By monition of a Messenger, as by a Serjeant at Arms, who upon Contempt of former Process, or upon doubt of the Flying of the party, or for his being neer at hand, or in respect of the heinousness of the fact, was many times sent to bring the Defendant into the Court.

The manner of pleading in this Court was by Bill, Answer, Replication, Rejoinder, &c.

The hearing was as well by Examination upon Oath of the Defendants themselves, as of their Witnesses, against whom the manner was to Award Compulsories for their appearance, if the party would depose their Testimony to be necessary for him, and if their ability of body would bear the Travail; if not, they were in respect of their impotency examined at home.

The determination was by Decree, which passed by the Assent of the more part delivering their opinions singularly

singularly; whereby either the cause was decided in the Court, or dismissed to tryal at the Common Law; or otherwise upon Default of the Plaintiff (being proclaimed or called thrice at the Counsel-door, the Defendant was quite dismissed with his costs and expences.

The Officers were, the Clerk, the Attorneys, the Usher, and the Serjeant at Arms.

The Clerk of the *Star-Chamber* was to take, endorse, enter, keep, and certifie the Bills, Pleadings, Records, Rules and Decrees of the Court.

The Plaintiff was commonly bound either alone or with Sureties, to justifie the matter of complaint; or otherwise to pay costs to the Defendant; and in default of such proof, was many times committed to Prison for his wrongfull vexation. The Defendant likewise most commonly gave bond for the Peace, or for the good abearing, as the case required.

In the third year of the Reign of King Henry the seventh, a Statute was made, by which the persons therein named were authorized by their discretions to examine certain Offences, and the same to punish according to the effect of the Statute-Laws. The words be these.

The King our Sovereign Lord remembreth how by unlawful *Maintenances*, giving of *Liveries*, *Signs* and *Tokens*, and by Retainers by Indentures, promises, and other Writings, or otherwise, Embrace-ries of his Subjects, untrue demeaning of Sheriffs in making Pannels, and other untrue Returns, by taking of money by Juries, by great Riots and unlawful Assemblies, the policy and good Rule of the Realm is almost subdued, and for not punishing those inconveniences, and the occasion of the premises, nothing or little may be found by inquiry, whereby the Law of the Land in Execution may take little effect,

to the increase of Murthers, Robberies, Perjuries, and unfurety of all men living, and losses of their lands and goods, to the great displeasure of Almighty God: Therefore it is ordained, for reformation of the premises, by Authority of the said Parliament, that the Chancellor and Treasurer of *England* for the time being, and Keeper of the Kings Privy Seal, or two of them, calling to them a Bishop and a Temporal Lord of the Kings most honourable Privy Counsel, and the Chief Justices of the Kings Bench and Common Pleas for the time being, or two other Justices in their absence, upon Bill or Information put to the said Chancellor, for the King or any other, against any person for any misbehaviour aforesaid, have Authority to call before them, by Writ or Privy Seal, the said misdoers, and them and others, by their discretions, by whom the truth may be known to examine: And such as they find therein defective, to punish them after their demerits, after the form and effect of the Statutes thereof made, in like manner and form as they should or ought to be punished, if they were thereof convict after the due order of the Law. *Anno 3 H. 7. Cap. 1.*

And in the 21 year of King *Henry* the eighth, a supplement was made to this Statute, in these words.

The Chancellor, Treasurer of *England*, and the president of the Kings most Honourable Privy Counsel attending upon his most honourable person for the time being, and the Keeper of the Kings Privy Seal, or two of them, calling unto them one Bishop and one Temporal Lord of the Kings most Honourable Counsel, and the two chief Justices of the Kings Bench and the Common Pleas for the time being, or other two of the Kings Justices in their absence, upon any Bill or Information hereafter to be put in; the Chancellor of *England*, Treasurer, President of the

the Kings said most Honourable Counsel, or Keeper of the Kings Privy Seal for the time being, for any misbehaviour before rehearsed, from henceforth have full power and Authority to call before them, by writ of Privy Seal, such misdoers, and them and other by their discretion by whom the truth may be known to examine: and such as they shall find defective, to punish them after their demerits, after the form and effect of the said former Statute, and of all other Statutes thereof before made, and not repealed or expired, in like manner and form as they should or ought to be punished if they were thereof convicted after the due order of the Kings Laws.

So that by these two Statutes, the judicial handling of eight offences came to be performed by this Court without any enquest or verdict but by the only examination of the parties themselves, or of competent Witnesses, or of both: a course not permitted by the Common Law, whereby no tryal was allowed, but only *per legale iudicium parium*, as *Magna Charta* acknowledged.

Nevertheless by these new Laws, the offences named in them, were to be punished in no other degree in this Court, then they were before upon conviction by Judgement, and tryal by verdict.

SECT. III.

Of unlawful Maintenance.

I Shall here make a particular enumeration of the several offences determinable in this Court by the forementioned Statutes; the first whereof is *Maintenance*.

This word *Maintenance* seemeth to be derived of the Latin word *Manteneve*,, to hold by the hand, because he that maintaineth doth as it were hold by the hand, or taketh and holdeth the cause of another man as fast, as if it were his own proper business: And therefore maintenance is a kind of conspiracy made by two or more persons against some other; because the very party to the cause, and that others who step into the furtherance of it, do combine themselves together, and do make a complot against the adverse party to the same. And this may be as well for matter hanging in suit or plea, as for some other cause not being brought into Plea or Action. But *Maintenance* is commonly understood of cauits in suit, as when one that hath no Interest to a matter in Question, will either give money to Counsel, or will take some Interest of purpose to make the cause seem to be his own, or will shew himself (and give his Speech or countenance) for the one side, at the time that the matter shall be heard or tryed; or will terrifie or discountenance the contrary side, or generally will do any thing for the one party, to the hinderance of the Free course of Justice against the other.

There is one kind of *Maintenance* that hath a special name, and that is *Champerty*; because the party to a suit giveth to some other man (for *Maintenance* sake, *Campi partem*, that is) some part of the thing in Demand, or otherwise some profit going out of the same. And *Champertors*, saith the Statute, 3 Ed. 1. be they that move Pleas and Suits, or cause them to be moved by their own or other mens procurement, and sue them at their own proper costs, to have part of the Land in variance, or part of the gains that may come by the suit.

Now *Champerty* is committed either by Officers

or private men; and is evil enough in them both; but greater in publick persons than in private men, for they have advantages which private persons want, the help of their Offices, and more skill and Authority to work their mischief; for if it be permitted that every one (especially Officers,) may maintain the quarrel of another either by his purse or power, then shall the cause of the poor and honest be overthrown, and the wicked shall be emboldened to do Injury. Therefore the Laws have according to the diversity of the offence ordained sundry punishments, as first;

1. *None of the Kings Counsellors, Servants of his Household, Officers of his Courts, or great men of the Realm, shall take upon them to maintain any Quarrels or parts in the Countrey to the disturbance of the Common Law: upon pain that every Officers body, Goods and Lands shall be at the Kings pleasure.* 1 Ed. 3 C. 14. 4 Ed. 3 C. 11. 20 Ed. 3 C. 4. & 1 R. 2. Cap. 4.

2. No man shall by any means buy or sell, or take promise or Covenant to have any pretended Right or Title to any Lands, Tenements or Hereditaments, unless he that so selleth, promiseth or Covenanteth, or his Ancestors, or they by whom he Claimeth, have been in possession thereof, or of the Reversion or Remainder thereof, or have taken the Rents or Profits thereof, by the space of one whole year next before such sale, Covenant or promise upon pain that such Seller or Promiser shall lose the whole value of the thing bought or promised, and that such buyer or taker of promise, (knowing thereof) shall likewise lose the whole value thereof.

3. No man shall by any sinister labour or means maintain any matter or cause, to the disturbance or
hin-

hinderance of Justice; upon pain to lose 10 l. for every offence. 32 H. 8. Cap. 9.

4. No Sheriff or Steward of any Court shall suffer any *Barretor* or maintainer of Quarrels in their County-Courts or other Courts, upon pain that the King shall grievously punish both the Sheriff, and him that so doth, 3 E. 1. Cap. 32.

5. No person (after forceable Entry by him made into any Lands, or after the holding of the same with force) shall make any Feoffment or discontinuance thereof (for maintenance sake) to any Lord or other person, to defraud the possessor of his Recovery. And if it may be proved, then that Feoffment or discontinuance shall be void. 8 H. 6. C. 9.

6. No person shall so maintain any Riot, Rout or unlawful Assembly, that the same thereby may be found by the Jury charged to enquire thereof, upon the pain of Imprisonment, and to forfeit 20 pounds. 19 H. 7. Cap. 13.

7. Touching *Champerty*, it is ordained that such as take Pleas to *Champerty*, by any craft or means, shall if they be any of the Kings Counsellors, household-servants, Justices of his Courts, or Ministers there, have three years Imprisonment, and make fine at the Kings pleasure, 21 E. 1. And if they be other persons then such, then they shall forfeit so much of their own Lands and Goods, as the thing that they have so bought shall be worth, 28 Ed. 1.

SECT. III.

Giving of Liveries.

THe next fault or Criminal following Maintenance, is giving of Liveries, Badges, or Tokens, or other

other signs : it partaketh of the same nature as Maintenance, being also a kind of conspiracy to maintain some person or party, and to make it great withal.

For on the one side, Noble or mighty men, and Gentlemen, perceiving that the tryal of causes in the County proceedeth ordinarily by the mouths of Yeomen, or Freeholders, they did many times retain such men into their Avowment, service and protection ; offering them their Countenance and Authority, that they also may receive reciprocal favour, and good help, by their Sollicitation and means amongst the Freeholders of the Countrey that be their Neighbours, Friends and Kindred.

And on the other side, these good Fellows finding shelter under the cloth of a great one, against such storms as may arise upon them, many of them finding themselves so invested, take from thence the boldness to offer wrong to their Neighbours ; as they were glad at the first to be defended from them.

There were likewise, and still are, under one covert or another, another kinde of league and alliance of equals, amongst the base and vulgar sort of people being an usual Combining of many into one body, suiting themselves into some Common Mark, whereby they might be known each to other of them.

Now although these conventions may at the first view deceive many with a vizard of *Amity*, *Love* and *Brother-hood*, (such a crew there lately were, and still are, if the last Lord Mayor hath not broke the Knor, calling themselves *Bulfeather-men*) yet the wisdom of the Law, (that is able to unmask such fraud) hath discovered many dangerous evils that lye and lurk underneath them, they being the seeds and weeds of *Atchists*, *Mutinies*, *Factions*, *Schismes*, *Tumults* and *Rebellion*.

And

And besides that, the Common course of Justice between man and man is greatly interrupted by these confederacies; so as hardly any man who is not a party to such a Conjuraton, could hardly ask his right of any of them, or defend himself from Injury offered by them, the cause of every one of them being used as the Common cause and quarrel of them all.

There is another wicked Crew of Common-wealth Caterpillers, such are notorious offenders against some usefull poenal Statute, and link and encircle themselves together all in a Conjuraton, to keep a Common Stock amongst them, to persist in their wickedness and by subordination, and all manner of Villany, to shelter themselves from the Law: a notorious knot of such confederates there are, who are grand offenders in many Staple Commodities, whereof those that abuse the Kings Laws and people in the commodity of Leather are not a few: and against these the before-mentioned Statutes, and these following, have armed their power. But they are so subtil in their practices, as the Common course of the Law will hardly detect them; but will doubtless persist in perpetration of their Injuries, until this Court of *Star-chamber* re-assume its power and Authority to chastise them.

Against giving of Liveries are ordained *Star. 16 R. 2. Cap. 4. 20 R. 2. Cap. 2. 1 H. 4. Cap. 7. 7 H. 4. Cap. 14. 8 Ed. 4. Cap. 2. 3 H. 7. Cap. 12. 7 H. 4. Cap. 14.*

SECT. V.

Embracery.

THis may be taken for a member of Maintenance, or else it signifies the Seducing of Jurors to pervert Justice, the which is more properly called, and most commonly known by the name of *Embracery*, and yet is a kind of maintenance and conspiracy also. The Statute, 28 Ed. 1. & 38 Ed. 3. cap. 13. defineth them to be *Embraceours*, which do Sollicite and procure inquests to make gain and profit.

It not unfitly took this name from the French word *Embracer*, which signifies to kindle or set on fire: So he that laboureth to make a Jury for one side or party, doth Metaphorically kindle or set them on fire, by incensing their minds against the other party.

Or it may be taken from the French word *Embrasser*, that is, when one taketh another in his arms and as we say in English, embraceth him: so he may be said to be the *Embracer* of a Jury, that maketh much of them and embraceth them in the arms of fair speech, gifts or promises, to allure and win them to the one side against the other.

So that if any person take upon him to labour and ply a Jury before they come at the Bar, for the one side; or for to affray them when they be at the Bar; or by any means endeavour to corrupt them, for the help of the one party against the other, he is a special maintainer under the name of *Embracery*.

Now what mischiefs may ensue by corrupting and imprisoning the opinions of Jurors in this Realm,
(wherein

(wherein the chief proceedings in Law is by the means of them) every man may see no less mischief accompanying it, than the secret undermining, ruine and overthrow of all Law, Right and Justice.

Against Embracers the Law hath ordained,

That if any person shall for his own gain imbrace any Jury or Inquest, he shall lose ten times so much as he received and if he have not whercof to answer so much, then he shall endure a whole years imprisonment: But if he shall embrace a Jury without taking any thing for his Labour, he shall pay ten pounds for every such his offence. Stat. 38 Edw. 3. cap. 12. 32 H. 8. cap. 9.

SECT. VI.

Offences in the making of Pannels.

Those that study to accomplish their ends *per fas aut nefas*, perpetrate their designs further than to cease here: for though they be mighty to maintain, and well accomodated with *Retainers* and *Followers*, and can well deal with Jurors and Inquests; yet they go farther, to procure the Sheriff or his Clerks to return and impanel such men for them, as they themselves should nominate or like. Now to prevent this mischief, the Statutes have provided against two misdemeanors of Sheriffs, and referred them both to the correction of this Court the Star-chamber: and the one is offences in making of Pannels, the other falsehood in returns of Writs.

For as in that part of his Office touching the Impanelling

pannelling of Jurors, the good Demeanor of the Sheriff maketh much to the furtherance of Right; and his corrupt dealing may highly advance injury and wrong: so also by all other his returns and answers to his Majesties Courts, he may greatly help or hurt the matter in Question; either by winning time against the Plaintiff by his dilatory returns of his Writs and Process, or wronging the Defendant by untrue answer made of that which he hath in charge; or abusing both them and the Court, by sending no return at all. Touching Pannels generally, it is provided by the Statutes, 42 Ed. 3. cap. 11. 34 Ed. 3. cap. 4. 18 H. 8. cap. 14. 3 H. 8. cap. 12.

S E C T. VII.

Taking money by Jurors.

IT may certainly be presumed, that if Jurors take money to give their verdict, they will with *Judas* betray the truth. And if it be most true that gifts and bribes will pervert the Judgement even of the wisest, then how can it be otherwise, but that the common man shall be drawn aside and corrupted thereby? And therefore when the Jurors, that be more than half Judges of the controversie, shall pledge the one of the parties in that cup of poyson which he hath brewed to destroy the life of his adversaries Right; what can be looked for, but that the better side shall have the worse, and the fall?

Against this evil it was ordained 34 Ed. 3. cap. 8. That if a Juror in any Inquest to be taken for the King, or between parties, do take any thing by himself, or by any other of the parties Plaintiff and Defen-

Defendant, to say the verdict, then he shall pay *decies tantum*, ten times so much as he hath taken; whereof the one half to be to the King, (whose justice and judgement he hath perverted, (and the other half to the party, or any other that will sue for the same; and if he have not to satisfie the Law, then to have the Imprisonment of a whole year.

SECT. VIII.

Riots, Routs, and Rebellious Assemblies.

THe Statute of 3 H. 7. doth call some Riots great: and sundry former Laws do note two manner of Riots; the one less, in respect of the small number of persons that commit it, and in regard of the small Terror, disturbance or hurt that ensueth of it; the other great and heinous, because it savoureth of a more general disobedience, even to the shaking of the Estate; and is or may be in regard of the number or quarrel, the very seed of Mutiny and Rebellion.

And therefore the Statutes of 5 Rich. 2. cap. 6. & 7 R. 2. cap. 2. & 6. do term the Riots of this later sort by the names of Rumours, great Kidings, Routs and Riots against the Peace. The Statute 2 H. 5. cap. 9. calleth them Assemblies of People in great number, in manner of Insurrection: and the Laws 5 R. 2. cap. 6. & 1. Marl. 1. cap. 12. do name them Rebellious Insurrections and Rebellious Assemblies.

But the offences of all these sorts are at this day distinguished by three several names, that is, unlawfull Assembly, Rout and Rior.

An unlawfull Assembly is commonly taken to be where

where a company of three persons or more be gathered together, to the end to commit forcibly an unlawful Act.

A Rout is likewise construed to be, where such a company of three or more, being gathered to such an intent, do move forward; by going or riding, to the putting of their intentions in practice, and yet do not come to the actual handling and Execution of their purpose.

A Riot is the very effect and final Act of such a company of three or more assembling, proceeding and putting in Execution forcibly that unlawful Act which they intended.

As if three persons or more under the number of twelve, do assemble themselves unlawfully to beat any person, or to enter forcibly into the house or Land of any other, or to pull down the Inclosures of any Park, Warren, or ground inclosed, or to destroy any Fish-pond, Pool or Dove-house, or to do such other Act, and being so assembled do go forward about the same, and do effect their desire, then is this an unlawful Assembly for their first meeting; a Rout for their moving forward; and a Riot in the end by their Execution.

This word Rout we still retain from our Saxon Ancestors, who to this day call a band or company of men riding together by the name of *Rot*. Riot we have borrowed of the French *Riotier* to brawl or scold, because most commonly outrageous deeds do follow contentious and scolding words.

The punishments which the Law hath ordained to be inflicted upon such Assemblies, Routs and Riots, be these: they shall be taken by the Justices of the Peace and Sheriffs, and be cast into the next Gaol, till they have made Fine and Ransome to the King.
15. R. 2. Cap. 2.

Rioters attainted of great and *hainous* Riots; shall be imprisoned one whole year at least, without Bail or Mainprize, and then make grievous fines: and such as shall be attainted of *petit* Riots, shall have imprisonment and make a Fine, as shall seem good to the Kings Justices, 2 H. 5. Cap. 8.

But if the Number of such an assembly be twelve or above, that shall attempt any of the things prohibited by the Statute made against *Rebellious* and unlawful assemblies, *Anno 1 Marie Regin.* and do continue together by the space of an hour after Proclamation orderly made for them to depart, then is their offence Felony, and may receive punishment by the ordinary course of the Common Law.

SECT. IX.

Counterfeiters of false Tokens.

THERE was a Statute made *Anno 33. H. 8. Cap. 1.* against the counterfeiters of privy Tokens and false Letters in the names of others, for the obtaining of money or goods from any persons; and touching such there is special direction of power given to the Lords and others of his Majesties Council in the *Star-chamber*.

Very high was the honour and Authority of this Court, being awed by the personal State and presence of the Kings Majesty himself, or by such as were nearest in the Stair of Authority under him. I have spoken thus much of the original power and usage thereof; I shall say a word or two more of the practical proceedings thereof, and so leave it, if not for precedent, yet for antiquity.

SECT.

SECT. X.

The practice and Fees of the Star-chamber.

BETWEEN party and party, the leading process is a *Subpœna* against the Defendant.

After the return of the *Subpœna*, the Defendant hath four dayes to make his appearance, which he must be careful to enter.

And for the appearance and Attorneys Fee for the whole Term he payes, 5 s. 4 d.

If the Defendant appear not in due time, there being Oath made of serving the *Subpœna*, an Attachment is awarded against the Defendant, for which the Plaintiff payes for the Oath, warrant of the Attachment, and Writ and Seal. 7 s. 4 d.

If the Return of the *Subpœna* be at a day certain, the Defendant hath that day and the next to appear.

If the Defendant be taken upon an Attachment, he must put in Security to answer his contempt, the Fee whereof is, 2 s.

A Defendant may, if a Bill be Exhibited against him, And he have notice thereof, appear thereunto *Gratis*, and answer without process.

If the Sheriff return *nihil feci* upon an Attachment, The Plaintiff may have an *alias* Attachment; for the warrant thereof, Writ and Seal, 5 s. 10 d.

If the Sheriff return *non est Inventus* upon the Attachment, the Plaintiff may have an Attachment with Proclamation.

For the Warrant thereof, 3 s. 4 d.
Writ, 2 l. 2 s. 6 d.

And

And if the Defendant do not appear upon the Proclamation, the Plaintiffs Solicitor is to call for the return thereof, which the Sheriff will return *Proclamari feci*; and thereupon the Plaintiff may sue forth a Commission of Rebellion, directed to five such Commissioners as he shall name, to apprehend the Defendant, the Fees whereof are, For the warrant thereof,

3 s. 4 d.

Writ and Seal.

15 s.

If the Defendant appear upon any of the Attachments, the Plaintiff may have him Committed to the Fleet for his contempt upon order herein: for entry and of the order herein,

3 s.

Where note, it is no contempt until the Counsel shall order and judge it a contempt.

If the Defendant after he hath appeared upon an Attachment, do depart without answering of the contempt, his bond may be estreated into the Exchequer, and order may be for his Commitment likewise, notwithstanding the advantage to be taken of the bond.

The Plaintiff must, before he hath any warrant for the process, put into the Court a perfect Bill, or else a Bill *Pro forma*.

If the Plaintiff do exhibit a Bill *Pro forma*, so much time as the Defendant hath after the return of the *Subpoena* to make his appearance, even so much time hath the Plaintiff to make his Bill perfect.

If the Plaintiffs Bill be not put into the Court in due time, the Defendant may get himself to be dismissed with costs.

The Clerk of the Court hath two shillings out of every twenty shillings assessed for costs.

For the warrant to lead the writ whereby to demand it,

2 s.

For the Writ and Seal,

2 s. 6 d.

If upon serving of the said writ for costs, and Affidavit on that behalf, the costs be not paid by the Plaintiff, the Defendant may have an Attachment against him.

The form of which Attachment, *ut supra*

The Defendant hath eight dayes after his appearance entered, to put in his answer, so as he do appear in due time.

For the copy of the Bill, for every sheet, 1 s.

If the Defendant cannot appear in person, by reason of impotency or other lawful cause of hindrance, he may upon Affidavit made in that behalf, have a *Dedimus Potestatem* to take his answer in the Country, as is used in Chancery.

Fee for the Affidavit herein, 2 s. 4 d.

The copy thereof, 2 s.

The non-appearance of every several Defendant served to appear, and having this benefit, payable in Court, 1 s. 4 d.

For every the like for the same to his Attorney per piece, 1 s. 8 d.

For ingrossing the Bill, for every sheet thereof, 8 d.

The Warrant, 3 s. 4 d.

The Writ and Seal, 7 s. 2.

If the Oath to justify the impotency in the said case cannot be made, then the said *Dedimus potestatem* must be obtained by order from the Lord Keeper, upon suit to him to be made in that behalf.

Fee for the entry of this Order, 3 s.

For the other Fees, *ut supra*.

If neither the Affidavit of impotency can be made, nor the Lord Keepers order can be had, the means must be used to procure the Plaintiffs consent, that the answer may be taken by *Dedimus potestatem* in the Country: which if it be also denied, there is no remedy but the Defendant must answer personally under the peril aforesaid.

After a Commission of *Dedimus potestatem* is gone forth to take an answer in the Country, it must be returned after it is executed by Oath, unless one of the Commissioners himself bring it.

Fee for the Oath in this case,

4 d.

For entry thereof,

1 s.

But if the delivery be made by a Commissioner, it saveth both the Oath and the charge thereof.

And if the Defendant in this case do not answer in time, then the Plaintiff may take out an Attachment, and proceed with process of contempt, *ut supra*.

And if a *Dedimus potestatem* be granted to the Defendant to make answer in the Country, the Plaintiff may, if he please, joyn with him therein, and minister Interrogatories for the Defendant to answer unto likewise.

If the Plaintiffs do joyn with the Defendant in the *Dedimus potestatem*, and the *Dedimus pot.* is obtained by Affidavit made *ut supra*, the Plaintiff must bear the one half of the charge of the Writ and Seal.

Fee for the warrant of the Writ,

3 s.

The Writ,

7 s. 2 d.

The Plaintiff hath four dayes after the Defendant hath delivered in his answer, to put in his Interrogatories, whereupon the Defendant is to be examined.

Fee for the copy of the answer, for every sheet thereof,

1 s.

The Plaintiff if he so please may omit the putting in of any Interrogatories to examine the Defendant after he hath answered, for he is not bound thereunto.

And if the Defendant do depart out of Town before he be examined upon Interrogatories as aforesaid, then the Plaintiff may have an Attachment against the Defendant for such his departure.

Fee for the Warrant *inde*.

3 s.

For

For the Certificate of the Examiners, to testifie that the Defendant is not examined, 1 s. 6 d.

For the Writ, 2 s.

And upon the said Attachment the Plaintiff may proceed to a Commission of Rebellion against the Defendant in manner as aforesaid.

If the Interrogatories be put in by the Plaintiff, the Defendant may be examined thereupon.

Fee for the examination, 2 s. 4 d.

For Admittance to Attorney, 2 s. 4 d.

But if no Interrogatories be put in by the Plaintiff, within the time limited as aforesaid, then after the time, which is four dayes, the Defendant may safely depart out of Town.

Provided that the Defendant do obtain from the Examiners a certificate to testifie that the Plaintiff hath not yet put in any interrogatories against him.

Fee for the Certificate, 2 s. 4 d.

For his admittance to Attorney, 2 s. 4 d.

And if the Defendant do Demur to the Plaintiffs Bill, then the Defendant is to move the Court, that his said Demurrer may be referred to the examination and consideration of some of his Majesties Judges of either Bench, or to some of his Majesties learned Council; And that they may certifie back to the Court whether the said Demurrer be sufficient or not.

For the entry of the order hereupon, 3 s.

And if the Justices or his Majesties Council learned in the Law to whom the said Demurrer is so referred and committed, do upon examination and consideration thereof, certifie to the Court that they find the said Demurrer to be insufficient, then the Defendant payeth to the Plaintiff forty shillings costs.

And the Plaintiff may have a *Subpena* against the Defendant to make a better answer.

Fee for the entry, and copy of the Certificate, 2 s.

The warrant for the Writ to call the Defendant to make a better answer, 2 s.

The Writ and Seal, 2 s. 6 d.

And if the Defendant do not pay unto the Plaintiff the said sum of forty shillings so awarded for the insufficiency of the Demurrer, and that upon the return of the *Subpœna* to make a better answer, then the Plaintiff may have a *Subpœna ad solvendum* against him.

Fee for the warrant thereof, 2 s.

For the Writ and Seal, 2 s. 6 d.

And if the Defendant do not pay the Plaintiff upon that *Subpœna*, being served upon him, and Oath thereof be made; then the Plaintiff may have an Attachment against the Defendant for his costs so awarded, and proceed thereupon *ut supra*.

Fees thereof *ut supra*.

If Affidavit be made that the Defendant is so aged or impotent that he cannot come to answer or Demur in person, his Demurrer will be accepted as though he were personally present at the doing thereof.

And then if the Defendant do Demur to one part of the Bill, and answer to another part of it, the Defendant is to answer to Interrogatories touching that part of the Bill unto which he so answered.

And if upon examination had of the Defendants Demurrer, it be certified to be sufficient; then upon such certificate the Plaintiffs Bill to be overthrown, and the Defendant is to be dismissed out of the Court, and to be allowed his costs in this behalf sustained.

Fee for the entry and copy of such Certificate, 1 s.

For the dismissal, 2 s.

To his Attorney for his Bill of costs, 6 s. 8 d.

To the Clerks for entry, 2 s. 6 d.

For

For the warrant to lead this Writ *ad solvendum*, 2 s.
For the Writ and Seal, 2 s. 6 d.

Where note, that if neither the Plaintiff nor the Defendant doth move the Court to have the Demurrer to be referred in manner aforesaid, there the cause proceedeth no further, but dyeth.

And oftentimes the sufficiency of answer made to Interrogatories, is referred by the Court to Committees: But howsoever the Certificate is made thereupon for or against either party, no dismissal doth follow thereupon; only some small costs is awarded to the party on whose side the Certificate is made; for the recovery of which costs, they may take such course and order as is to be taken in case of a Demurrer.

Fees *inde*,

ut supra,

When the Defendant hath put in a sufficient answer to the Plaintiffs Bill, and is examined upon Interrogatories, then the Plaintiff may reply, and take out a Writ *ad rejuvendum* against the Defendant, where-with he must be served.

The Fees of copies of the answer and examination upon Interrogatories, every sheet, 1 s.

The warrant to lead the Writ, 2 s.

The Writ and Seal, 2 s. 6 d.

If there be more Defendants then one to the Bill, the Plaintiff is not bound to reply, untill they have all answered.

And if the Defendant answereth generally *not guilty*, then there shall need no replication to be made at all, because they be at issue upon the same plea; and then the Plaintiff may take out his Writ *ad iudicandum in Commissione*, to make the Defendant joyn with him in Commission.

The Fees thereof are as before specified.

And if the Plaintiff do reply before the Defendant

is

is examined upon Interrogatories, he looſeth the benefit of examining the Defendant in that cauſe.

And if the Plaintiff do not reply the next day after the dayes expired which are given to him in warning to make his replication, the Defendant may upon ſuch default of the Plaintiff move to have the cauſe diſmiſſed for want of effectual proſecution.

Fee of entry of the order thereof,

3 s.

For the Reſt, as before for the demurrer.

When the Plaintiff hath ſerved the Writ *ad Rejungendum* upon the Defendant, and Affidavit be thereof made, he may take out his Commiſſion to examine Witneſſes.

This Commiſſion is to be directed unto ſuch Commiſſioners as the Plaintiff and Defendant ſhall agree upon.

Fee for the Affidavit made for the ſerving of the Writ *ad rejungendum*.

2 s. 4 d.

The Warrant,

3 s. 10 d.

The Commiſſion,

7 s. 2 d.

If the Defendant do reſuſe to joyn with the Plaintiff in the Commiſſion, then the Plaintiff may ſue out the Commiſſion, and proceed by himſelf alone.

Or the Plaintiff if he pleaſes may examine his Witneſſes in Court.

When the *Subpoena* to rejoin is ſerved upon the Defendant, he need not to enter any appearance thereupon, but only to rejoin to the replication.

Fee thereof,

ut ſupra.

And if the Defendant do joyn with the Plaintiff in Commiſſion, then he muſt bear half the charge thereof.

If the Plaintiff do delay the ſuing forth of any Commiſſion to examine Witneſſes, then the Defendant upon Oath made that he was ſerved to rejoin, may himſelf alone take out a Commiſſion to examine on his party.

Or

Or otherwise, the Defendant upon such delay of the Plaintiff, may the next Term following move to have the cause dismissed.

When the Commission is executed and returned, the Plaintiff or Defendant may assign and give to each other a day to shew cause why publication should not be granted in the cause.

Fee for return of the Commission, 4 d.

The Rule of publication, 1 s.

After the assignment to publication, and the dayes so assigned be expired, if nothing be said to the contrary, the publication may be entred.

For the entry of publication, 1 s.

Note, that nothing stayeth publication, but it must be granted upon

*Order,
Affidavit,
Certificate,
or,
Consent.*

After publication is so had and procured, the cause standeth then at the highest: for untill the hearing, nothing more is to be done in it.

For entring the cause into the Common Book of hearing, 1 s.

Lastly observe that nothing altereth the aforesaid grounded Rules of this most Honourable Court, but only,

*Order,
Affidavit,
Certificate,
or,
Consent.*

Which

Which procured upon some extraordinary accidents, do sometimes change the prescribed Custome of proceeding and Rule of the Court.

SECT. XI.

The manner of proceeding in the Star-chamber, ore Tenus.

THis proceeding was generally against delinquents for speaking reproachful words, or writing reproachful and scandalous Libels and Pamphlets, or for Crimes of the like nature.

Now if any delinquent had done or spoken any thing worthy the hearing and censure of this Honorable Court, and be questioned for the same, and whereupon doth confess the fact, or words, and subscribeth his hand to the same Confession made in writing before the Lord Chancellor, Lord Keeper, or any the Lords Judges, or the Kings Counsel; And doth when he is called to this Bar to answer it, likewise confess the same to be true, and acknowledgeth his hand subscribed to the Confession made as aforesaid, in such case the Court useth to proceed to sentence and censure according to the nature and merit of the Crime.

And if the Lord Chancellor or Lord Keeper, the Judges and Kings Counsel, or any other having Authority in this behalf, shall take any such examination and Confession, yet if the party at the Bar shall either deny his hand thereunto subscribed, or the matter therein contained to be true, then the Court doth not proceed to sentence and censure, untill the same be proved *per Testes*.

And

And so I conclude to speak of the practice of this Court, which I have done, that if it ever come in power again, Solicitors to come may be instructed in the practice thereof: and if not, yet it will be worth the reading for Antiquity sake; and to that purpose, before the Solicitor returns from *Westminster*, let him take a short view of another obsolete Court formerly called the Court of Requests at *White-hall*; the former practice whereof, that future ages may look back a little upon what hath been before them, I shall shortly mention.

THE



THE
SOLLICITOR
IN THE
COURT of REQUESTS,
Or White-Hall, at
WESTMINSTER.

CHAP. XVI.

THe practice of this Court hath ceased ever since the breaking out of the late hellish Rebellion; and is not yet exercised again.

It was a Court of Conscience and equity, and handled causes that required moderation of the rigour which the Common Law denounceth; so that it participated with the nature of the Chancery, and the practice and proceeding thereof was by English Bill, answer, replication and Rejoinder, like to the proceedings of the Chancery, save only in this they

they differed, that here the Bills were Exhibited to the Kings Majesty only, and to none other; and in that, the Masters of the Requests were sworn of the Kings Council, and the Place was continually served with a Clerk that was alwayes one of the Clerks of the Kings privy Seal, who was the Register of the Court: and a privy Seal, in stead of the leading process of a *Subpœna*, was the Original Writ of this Court.

Or otherwise they did use to summon such as were neer-hand by their Messenger, and proper officer of the Court.

Their Fees in the point of proceeding were for the most part all alike with those of the Chancery.

But only there was a difference in the charge of their beginning or entrance into a suit in the Court of Requests, which was a very great hindrance to their practice, and is to any Court whatsoever, to begin dear; it were better policie in beginning easie for suitors, and make themselves amends in the end.

The easie commencing or entrance into a suit for the Plaintiff in the Kings Bench and Exchequer Office of Pleas, fills those two Courts so full of business; and the chargeableness of beginning a suit in the Common Pleas makes that Court so thin.

So formerly in this Court in stead of two shillings six pence which you pay in Chancery for a *Subpœna*, here they paid at least for a summons by privy Seal, 8 s.

Or if the summons were made by the Messenger in town, you pay to him for his pains 3 s. 4 d. for every defendant summoned, besides the Warrant to do it, for which they paid *ad Libitum*, what you please.

So that this great burden at the very entrance into a suit here in this Court, did very much hinder it, and will be worth the consideration to moderate it,
if

if ever this Court reassume her former power and practice.

For the antiquity of this Court, there can no other beginning thereof be conceived, then together with the very Regality and Kingdom it self, forasmuch as they of this Court have not had alwayes their standing place of resort, but have antiently remained and removed with the King whithersoever he went, travelling between the Prince and Petitioners by direction from the mouth of the King.

About the eight year of King *Henry* the seventh this Court was settled in the place called the *white-hall* at *westminster*, which Room or Chamber is now called the Court of Requests.

The books of the Acts or Entries thereof were orderly digested and kept there, wherein were recorded the handling of the causes not only of Poor men and the Kings Servants, but of sundry noble persons, Abbots, Knights, Esquires, and other rich and wealthy Complainants.

Yet of later years the Bills of Complaint Exhibited there, did usually carry one of these two suggestions, *viz.* either that the Complainant was a very poor man, and not able to sue at the Common Law, or that he was one of the Kings Servants ordinarily attendant upon his person, or in his household.

The Masters of the Requests are neither called by Writ, nor appointed by Commission, nor created by Patent, as other Judges be: which argues the immediate Authority of the Prince to be exercised by them; but only have Letters Patents for their Fees and Salary.

The Clerkship of this Court hath beyond all memory been committed to a Clerk of the privy Seal, who was Register of this Court.

The Attorneys were anciently but two, but they afterwards came to be three; and their places were at the disposition of the Clerk.

The Original and first leading process of this Court, as I said before, was a privy Seal, after which if the party appeared not, there issued an *alias* privy Seal, Attachment, and writ of Rebellion, if the contumacy of the Defendant stood out so far in contempt.

In the formality of the rest of their proceedings, the course differed not much from the order and practice of the high Court of Chancery.

H h

THE



THE SOLLICITOR

IN THE
MARSHALSEY
And Court of the Kings Palace at
WESTMINSTER.

CHAP. XVII.

THe Court of Marshalley is an antient Court of Record, ordained to determine suits between those that are of the Kings house, and others within the verge.

The Judges of this Court are the Steward, and Marshal of the Kings house, who have Cognizance of all manner of pleas of trespass committed within the verge of the same house, so as either party be of the same house; and of all other actions personal, wherein both parties are the Kings servants: and this is the proper Jurisdiction of the Marshalls Court, or Court of Marshalley.

But

But the *Curia Palatii*, or Court of the Pallace, was erected by his late Majesty by his Letters Patents dated 2 *Julii Anno Regni sui sexto*, and made a Court of Record, called the Court of the Kings Palace at *westminster*, for the tryal of all personal actions between party and party, the Liberty whereof Extendeth it self twelve miles round *White-hall*: which Jurisdiction is since confirmed by his now Majesty King *Charles* the second, since his happy restoration.

This Court is kept every Friday in the Court-house on Saint *Margarets* hill in *Southwark*, and may be held in any place within the Jurisdiction, that is (as is said before) within twelve miles of *White-hall*.

The Judges of this Court, are the Steward of the Kings house, and Knight-Marshall for the time being, and the Steward of the Court, or his deputy, being alwayes a Lawyer.

The proceedings in this Court is by *Capias*, or Attachment, which is to be served upon the Defendant by one of the Knight-Marshals men, who taketh bond with such sureties for the Defendants appearance at the next Court, as he will be responsible for.

This process may be had at several places within the Liberty of the Court, appointed by the Steward, which every Marshal's man can readily help you to.

The Defendant upon his appearance, must put in Bail to answer the condemnation of the Court; which if he neglect to do, the Plaintiff may have the bond taken for the Defendants appearance assigned over to his use.

The next Court after the Bail is taken, the Plaintiff ought to declare and set forth the cause of his

Action, and so afterwards proceed to issue, and try by a Jury, according to the course of the Common Law.

In four or five Court-dayes, commonly a suit is in this Court brought to tryal, so that their proceedings are quick and speedy, unless an *habeas Corpus cum causa* carry away the plaint into the Kings Bench or Common Pleas, as it usually doth if the Cause be considerable.

In this Court they hold plea for all manner of personal Actions whatsoever, as Debt, Trespass, Battery, Slander, Trover, and all Actions on the case, &c. But many times very poor people are arrested by process out of this Court at the suit of wicked cruel Creditors, or malicious persons, for very small and inconsiderable causes, and are often put to much more charges then their debt or damages amounts unto, to their no small detriment; and many are by such unjust Creditors cast into prison for very small matters, which the Defendants poverty cannot satisfie according to the misers greedy desire, &c.

The Fees of the Pallace-Court or Marshalsey, as they are granted by the Letters Patents dated 13th die Julii, Anno sexto Caroli primi Regis, do here follow.

The ordinary Fees of the Palace-Court of Westminster, to be paid by the Plaintiff.

Inprimis, for every Writ or Precept of *Capias* or Attachment, to the Steward and Marshal, 1
To the Prothonotary for writing the Writ, 2
To the Marshal's man for executing or serving it, 1. 4

The Attorney's Fee upon every Declaration, issue
Vires facias, & *Habeas corpora Juratorum*, 1 s. 8

For the Warrant of the Attorney to the Prothonotary,	4 d.
For making of every Declaration, and entry thereof, to the Prothonotaries Clerks,	1 s.
For the Fee of the Court upon every Declaration, issue and knowledge of satisfaction, to the Steward and Marshal.	1 s. 4 d.
For the marking and filing of every Declaration, and entry of every satisfaction to the Prothonotary,	8 d.
To the Prothonotary for entering of every issue, and every verdict and Judgement,	1 s.
The Cryers Fee upon every issue,	4 d.
For every Writ of <i>Venire facias</i> , <i>Habeas corpora</i> , <i>Disstringas Jur.</i> and for every other Writ of Execution, and others.	1 s. 8 d.
To the Prothonotary for writing every of them,	4 d.
For the return of every one of them, to the Prothonotary,	1 s.
To the Marshals man for executing every <i>Venire facias</i> ,	2 s.
For the executing the <i>Habeas corpora</i> & <i>disstringas Jur.</i> to the Marshals man,	1 s. 6 d.
To the Cryer for warning of the Jury,	6 d.
For every Verdict and Judgement thereupon, to the Marshal and Steward,	3 s. 4 d.
To the Marshal's man for keeping the Jury,	1 s.
To every Councellour at Law for his Fee,	5 s.
To the Cryer for Proclamation of every Jury,	6 d.
To the Attorneys Clerk for every Bill of costs,	8 d.

The ordinary Fees to be paid by the Defendant.

For the Knight-Marshal's Fee upon every arrest,	3 s. 6 d.
To the Prothonotary thereupon,	10 d.
To the Keeper of the prison thereupon,	4 d.
To the Turn-key thereupon,	4 d.

For every Bail in Court, and every <i>Lil.</i> thereupon, to the Steward and Marshal,	1 s. 4 d.
To the Prothonotary for entring every Bail,	5 d.
To the Keeper of the prison thereupon,	1 d.
For the Attorneys Fee upon every <i>Lil.</i> of issue, <i>Venire facias</i> , & <i>habeas corpora Juratorium.</i>	1 s. 8 d.
For the copy of every Declaration to the Prothonotary,	1 s.
For every issue on the Defendants part, to the Steward and Marshal,	1 s. 4 d.
For every Warrant of Attorney for the Defendant thereupon, to the Prothonotary,	4 d.

Accidental Fees.

For every Rule of Court, to the Prothonotary.	4 d.
For the drawing of every Declaration, Plea, Rejoinder, Surrejoinder, <i>Moratur in lege</i> , for every sheet, to the Prothonotaries Clerk,	4 d.
For the Inrollment thereof, to the Prothonotary, for every sheet,	8 d.
For every Writ of <i>Subpoena</i> , to the Steward and Marshal,	2 s.
For the writing thereof, and of every <i>decem tales</i> , and of every <i>retraxit</i> , to the Prothonotary,	6 d.
For the allowing of every Writ of <i>Procedendo</i> , to the Steward and Marshal,	1 s. 8.
For the entry thereof, and of every continuation, and for the assigning of an obligation for appearance on Record, to the Prothonotary,	8 d.
For executing every Writ of <i>Scire facias</i> , to the Cryer,	1 s.
For the copy of every Record, to the Prothonotary, for every sheet thereof,	4 d.
To the Cryer upon every <i>non prof.</i>	4 d.
For every <i>Venire facias</i> , <i>Habeas corpora</i> , or <i>Distringas Juratorium</i>	

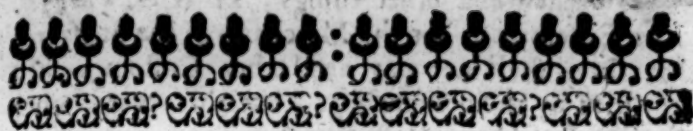
<i>Juror. per Proviso, to the Steward and Marshal,</i>	<i>1 s. 8 d.</i>
For writing thereof, to the Prothonotary,	<i>4 d.</i>
For executing thereof, to the Cryer,	<i>2 s.</i>
For the return thereof, to the Prothonotary,	<i>1 s.</i>
For the keeping of the Jurors thereof, to the Cryer,	<i>1 s.</i>
For every <i>non prof.</i> and every allowance of every Writ of <i>Habeas corpus</i> , Writ of Priviledge, Superfedeas, and every other such-like Writ, to the Steward and Marshal,	<i>1 s. 8 d.</i>
For the entry of every one of them upon Record, to the Prothonotary,	<i>8 d.</i>
For the return of every such Writ, to the Steward and Marshal,	<i>1 s. 4 d.</i>
For writing of the return thereof for every action, to the Prothonotary,	<i>1 s.</i>
For the allowance of every Writ of Error, to the Steward and Marshal,	<i>1 l.</i>
To the Prothonotary for the entry thereof,	<i>2 s.</i>
For every Writ of Superfedeas,	<i>2 s. 6 d.</i>
For certifying of Records, to the Prothonotary for the writing of every Roll of Parchment thereof,	<i>6 s. 8 d.</i>
For commitment of every Prisoner in execution, to the Keeper of the Prison,	<i>1 s. 6 d.</i>
For the Prothonotaries Clerks Fee thereof,	<i>1 s. 6 d.</i>
To the Turn-key thereupon,	<i>1 s. 4 d.</i>
For the Prothonotaries Clerkes Fee, for the entry of the cause of suit, and release of every Prisoner,	<i>4 d.</i>
Upon every obligation of appearance of the Prisoner, to the said Clerk,	<i>6 d.</i>

Amerciaments due unto the King in the said Court.

Of every Defendant for denying his act,	1 s.
Of every Plaintiff <i>pro falso clamore</i> ,	6 d.
For every Defendant in <i>Misericordia</i> ,	1 s.
Of every party <i>forecapt. per Judicium Curie</i> , for his Fine to the King,	1 s.

We have now passed all the *Westminster-Courts*, and
this of the *Pallace*, so that now we will return into
London.

THE



THE
SOLLICITOR
IN
LONDON.

CHAP. XVIII.

*Of the Customs of London, and divers Statutes
made wherein London is Excepted.*

SECT. I.

Of Aliens and Forreiners.

AN ACT was made that all Aliens in or about
London, shall be within the governance of
the Corporation of the Mystery or Craft
whereof they are, and taxable to their Mystery, 14 H.
8. Cap. 2. And afterwards a Decree was made in the
Star-chamber, and an Act that Such strangers should
pay scot and lor, tax and tallage, &c. as the Ma-
sters, Wardens, and Companies do, and that they
shall

make Games and other things, 21 H. 8. Cap. 16.

An Exception is for the Merchants of the Sullyard, that they shall not pay any other Customes then they used by their Franchises, but that every other Denizen should. 22 H. 8. Cap. 8.

That every Stranger may sell his Merchandizes by safe conduct of the King in any place of *England*, and to any person Except to the Kings Enemies, 2 R. 2. Cap. 6. Merchand. 17. and after that, a stranger might sell, as he might before, saving the Franchises and Liberties of the City of *London*. 6 H. 4. Cap. 4.

That Aliens and Denizens may buy and sell Merchandizes coming to *London* in gross, and not by retail, paying the Customes, and shall not be disturbed by the Citizens of *London*, notwithstanding any Franchise heretofore proved to the Citizens of *London*. 7 H. 4. Cap. 9.

Every man who bringeth Merchandizes to *London*, or other Cities, Burroughs, or Ports of the Sea, may sell in gross, or by Retail, notwithstanding any Franchises, Grants or Customes to the contrary, 25 Ed. 3. Cap. 2.

Aliens and Forreiners, being in Amity with the King of the Realm, who came with Fish, and other Victuals to *London* or other places, shall have safe conduct. 6 R. 2. Cap. 40. Victual. 5.

SECT. II.

Divers Statutes made wherein London is Excepted and their Customes Confirmed.

THe City of *London* shall have all the old Liberties and Customes which it hath been used to have, and all other Cities, Burroughs and Towns, and the

the Barons of the five Ports, and all other Ports, shall have their Liberties and Free Customes. *Stat. Magna Charta, Cap. 9.*

There was a very beneficial Charter made for the City of London, Anno 7 H. 7. for by that Charter the Citizens of London shall enjoy all their Liberties, priviledges and Franchises, *Licet usi non fuerint, vel abusi fuerint: vid. Rot. Patent. 7 R. 2. Nu. 37.*

That all persons shall have their Liberties and Customes, which they had before *Magna Charta, Cap. 37. Franch. 3.*

Another Statute was made to use the Franchises in quiet till the coming of the Justices in *Eire*, without usurpation upon the King, in Cities, Burroughs and Merchant-Towns; and if they do not come at the day, the Liberties shall be seized into the Kings hands in name of distress. *Stat. 30 Ed. 1. Quo warranto. Franch. 5.*

By the Statute de *Tallagio non concedendo*, That all persons shall have their Liberties and Customes, and that all Customes made to the Contrary shall be void. *Franchises 7.*

Another Statute which Confirms all Customes and usages of Cities, Burroughs and Towns. *Franch. 9.*

The Liberties of the Church confirmed by Statute 14 Ed. 3. Cap. 1. 25 Ed. 3. *pro Clero. Cap. 1. 1 R. 2. Cap. 1. 3 R. 2. Cap. 1. 2 R. 2. Cap. 1. 5 R. 2. Cap. 1. 1 H. 4. Cap. 1. 5 Ed. 3. Cap. 4.*

The Liberties of the Church, and of Cities and Burroughs and Franchised Towns are contained by Statute 2 H. 4. Cap. 1. 7 H. 4. Cap. 1. 9 H. 4. Cap. 1. 3 H. 5. Cap. 1. 2 H. 6. Cap. 1.

An Act was made that none should pardon treason, felony, &c. but the King; and that none should make Justices of the Peace, or other Justices, but the King; and

and that all Original Writs, and Judicial, and Indictments of treason, felony, and trespass, shall be in the name of the King, and the *Teste* in the name of a Lord of a Countie palatine, where they have privilege of making such Writs; and that every Indictment against the peace shall be supposed to be against the Kings peace: and that the Liberties shall have their Justices of Peace, and other Justices, as they used to have. And that all Officers shall be attendant upon the Justices, as they used to be: and that the returns shall be as they were used, and by such Officers: And that purveyors may make purveyance within Liberties as well as without: and that the King shall keep Courts within the verge, and not those of the Liberties; and that the Kings Clerk of the Market, and none other, shall Execute the Office of the Clerk of the Market, within Liberties or without; but not in *London*, who shall keep their Clerk of the Market, as they might have done: and that the penalties of Sheriffs shall Extend to Officers of Liberties: and that Justices within Franchises shall use their Liberties as largely within the Franchises as other Justices may do, and shall keep their Sessions at the times they used to do, with promise that it shall not be prejudicial to any usages, &c. of any City, Burrow, &c. But that they shall have such Fines and amerciaments, &c. which they have by the Kings Grants and Usages, as they used before, as if this Act had not been made; with a proviso that the Temporal Steward of the Bishop of *Ely* shall be a Justice of peace, and use the Function there, as all other Justices of the Peace without *Ely* may; and so of the Chancellor of the Bishop of *Durham*, and *York*, &c. Statute 27 H. 8. Cap. 24.

A Statute that all Liberties and Franchises to houses of Religion, or to any Honors or Lands, &c.

appertaining to them, and within the Court of Survey, are Revived, and shall be exercised as before and the profits of them shall be to the King: and so of the Franchises of the Lands of persons attainted, they shall be revived; and that the Sheriff do not intermeddle otherwise then he might do before with a *Proviso* that every person shall use such Liberties, which they have by the Kings Letters Patents, under one of the Kings Seals, by Parliament, or by any legal grant, or Lease of any person by Legal Title, Sanctuaries excepted; saving to every person such Offices, Fees, Annuities, which of Right they ought to have, as if the Act had not been made: and that when the King comes within the Liberty or Franchise, then the Franchise shall cease for the time, with *Proviso* that the Act shall not be prejudicial to *London*; and that certain Temporal Franchises of certain *Priories* shall be within the Survey of the County-palatine of *Lancaster*; and that such Liberties as *Priors* there have, shall be revived, and the profits shall be levied by the Officers of the Franchises; and they shall be attendant at every Court, with promise that it shall not be prejudicial to any Honors, Lands, &c. of the County palatine, nor to the Five ports. Statute 32 H. 8. Cap. 20. 33 H. 8. Cap. 39.

✓ The Mayor of *London* may remove all the Kidnells in the waters of *Thames* and *Medway*, and conserve the peace between *London* and the Bridge of *Staues*. 13. H. 2. Cap. 9.

A Statute was made, that of all breaches made by the River of *Thames*, where the Mayor hath the conservation of the peace, and the breaches are in the Lands of other Lords, that the Mayor of *London* shall not have the governance, nor rule, nor Authority in any of the said breaches, nor the punishment in any such places and Creeks for the using of unlawfulness. Statute 4 H. 7. Cap. 15.

An Act was made for the conveying of the River Lee to London, 13 *Elix. Cap. 16.*

An Act that the Sheriffs and Mayor of London for the time being, may give Liberties, 8. *H. 6. Cap. 4.*

That the Justices of the Peace and *Quorum* in London and *Middlesex*, and other Cities and Burroughs, may let to Bail Felons and Prisoners as they have accustomed, within their Jurisdiction, and take Examination of bonds, &c. 1 and 2 *Phil. and Mary, Cap. 13. Mainprise 7.*

That Grants of the Office of Alnage by the City of London shall be good, notwithstanding the Statute which makes the Kings Letters Patents void, 31 *H. 6. Office 8.*

That Sheriffs have no power to arrest any by force of Indictments before him, but that he deliver the Indictments to the Justices of Peace, upon a pain; Proviso that it Extend not to the Sheriffs of London as to any Indictments taken within the City. Statute 1 *E. 4. Cap. 1.*

The Liberties of the *Guild Thentoricorum* is confirmed, saving to the Mayor and Sheriffs of London their Liberties. 19 *H. 7. Cap. 21 Stillyard.*

That London shall take Scavage, called *Shewage*, of any Merchant Denizen within the City, according to the right of the City, but none in other Towns, 19 *H. 7. Cap. 8..*

The general Act for Tythes doth not Extend to London; because there is another Act for it, 27 *H. 8. Cap. 21.*

That the Sums Collected for the Poor in London shall be paid to the Governours of the Hospitals, 2 and 3 *Mary. Cap. 5.*

Every one who bringeth Victual to London, may sell it without disturbance, to Fishmongers, Butchers, Poulterers,

Poulterers, and others; and that the Mayor and Aldermen may redress the faults of Fishmongers, Butchers, or Poulterers, as of those who sell Wine, Ale, or Beer, notwithstanding Charters of Franchise, Customs or Prescriptions, or other Priviledges to the contrary. 31 E. 3. cap. 10. vidual 4.

That all Sellers and Victuallers, as well Fishmongers as others, with their Victuals coming to the City of *London*, be under the Rule and governance of the Mayor and Aldermen, as antiently they used to be. 7 R. 2. cap. 11.

Note that the allowance for finding of Orphans, according to the antient rates and customes of *London*, or other City where the like custome is, shall not be taken for usury. 13 H. 8. cap. 8.

The Malt that shall be made in the Counties of *Huntingdon*, *Cambridge*, *Northampton*, and *Bedford*, which shall be brought to the City of *London*, be well Sifted, Cleansed and Purified before it come thither; and the Mayors, Baliffs and Wardens of such Towns and places, where such Malt shall be sold, to see and search the said Malt; and that there be eight bushels to a quarter: and if default be made thereof, to redress it. 17 R. 2. cap. 4.

That no Citizens of *London*, or other the Kings subjects inhabiting in the five Ports or other, being free of Prizage or Butlerage of Wines, by Grant, Custome, or otherwise, Custome no Wines of any person not being free of Prizage or Butlerage. 1 H. 8. cap. 5. 3 H. 7. cap. 7. What shall be paid for freight from *London* to other parts beyond the Seas: Stat. 32 H. 8. cap. 14.

SECT.

An Act was made for the conveying of the River Lee to London, 13 Eliz. Cap. 16.

An Act that the Sheriffs and Mayor of London for the time being, may give Liberties, 3. H. 6. Cap. 4.

That the Justices of the Peace and *Quorum* in London and *Middlesex*, and other Cities and Burroughs, may let to Bail Felons and Prisoners as they have accustomed, within their Jurisdiction, and take Examination of bonds, &c. 1 and 2 Phil. and Mary, Cap. 13. Mainprise 7.

That Grants of the Office of Alnage by the City of London shall be good, notwithstanding the Statute which makes the Kings Letters Patents void, 31 H. 6. Office 8.

That Sheriffs have no power to arrest any by force of Indictments before him, but that he deliver the Indictments to the Justices of Peace, upon a pain; Provided that it Extend not to the Sheriffs of London as to any Indictments taken within the City. Statute 1 E. 4. Cap. 1.

The Liberties of the *Guild Thentoricorum* is confirmed, saving to the Mayor and Sheriffs of London their Liberties. 19 H. 7. Cap. 21 Stillyard.

That London shall take Scavage, called *Shewage*, of any Merchant Denizen within the City, according to the right of the City, but none in other Towns, 19 H. 7. Cap. 8..

The general Act for Tythes doth not Extend to London; because there is another Act for it, 27 H. 8. Cap. 21.

That the sums Collected for the Poor in London shall be paid to the Governours of the Hospitals, 2 and 3 Mary. Cap. 5.

Every one who bringeth Victual to London, may sell it without disturbance, to Fishmongers, Butchers, Poulterers,

Poulterers, and others; and that the Mayor and Aldermen may redress the faults of Fishmongers, Butchers, or Poulterers, as of those who sell Wine, Ale, or Beer, notwithstanding Charters of Franchise, Customs or Prescriptions, or other Privileges to the contrary. 31 E. 3. cap. 10. victual 4.

That all Sellers and Victuallers, as well Fishmongers as others, with their Victuals coming to the City of *London*, be under the Rule and governance of the Mayor and Aldermen, as antiently they used to be. 7 R. 2. cap. 11.

Note that the allowance for finding of Orphans, according to the antient rates and customes of *London*, or other City where the like custome is, shall not be taken for usury. 13 H. 8. cap. 8.

The Malt that shall be made in the Counties of *Huntingdon*, *Cambridge*, *Northampton*, and *Bedford*, which shall be brought to the City of *London*, be well Sifted, Cleaned and Purified before it come thither; and the Mayors, Baliffs and Wardens of such Towns and places, where such Malt shall be sold, to see and search the said Malt; and that there be eight bushels to a quarter: and if default be made thereof, to redress it. 17 R. 2. cap. 4.

That no Citizens of *London*, or other the Kings subjects inhabiting in the five Ports or other, being free of Prizage or Butlerage of Wines, by Grant, Custome, or otherwise, Custome no Wines of any person not being free of Prizage or Butlerage. 1 H. 8. cap. 5. 3 H. 7. cap. 7. What shall be paid for freight from *London* to other parts beyond the Seas: Stat. 32 H. 8. cap. 14.

SECT.

SECT. III.

Divers Statutes made for London.

THAT no Butcher kill any Oxe or other meat within the Walls of the City of London, nor of other Cities, Boroughs, or Walled Towns, &c. 4 H. 7. cap. 3.

Yet now the Butchers of London, generally keep their Slaughter-houses within the walls, as in Pincock-lane by St. Nicholas-Shambles, a most noisome place: Nay they do worse then this; for they usually blow the meat, especially Veal and Lamb, with their putrified poisonous breath, to no little danger of the People, yet no congruous remedy is yet provided against them.

That Shoo-makers, Sadlers, &c. who cut Tanned Leather in London, and the Suburbs, shall not Curry any Tanned Leather within his house, 5 Ed. 6. repeated by 5 Eliz. cap. 8. and that the Leather shall be bought at Leaden-hall; and what search the Mayor of London shall make, or cause to be made; and under whom the Survey of Artificers shall be, 5 Eliz. cap. 8.

That the Wardens of the Coopers with the Officers of the Mayor, shall search and view all manner of Barrells, Kilderkins, &c. 8 Eliz. cap. 9.

For Cloaths packt at London carried to Southampton, see the Statute of 13 E. 4. cap. 3. Customs 13.

That all Cloaths be measured by the Kings Aulnager, and his Deputies, in all Cities, Boroughs, and other Towns within Franchises; and if they be less then the measure, to be forfeited: and if the default be

in the Aulnager, he to be imprisoned. 25 E. 3. Stat. de pannis. Drapery. 5.

That the Merchants of London be as free to pack their Clothes, and quit of packs, as are all other Merchants and other Strangers within the City, or within other Cities or Burroughs within the Realm; and the Letters Patents to the contrary shall be void. 1 H. 4. cap. 16.

That all Woollen clothes; half clothes, Sterts and Kerseys, &c. be sealed with wax at both ends, and that more be not taken for it than used to be: if not in London and Bristol; that they be sealed with Lead. 17 E. 4. cap. 5.

That clothes shall be searched openly in London; and that clothes upon Tenter shall not be drawn more in length or breadth than before by the Surveyance of Mayors, &c. 1 R. 3. cap. 8.

That clothes shall be pressed in London with a cold Press without Covin. 4 & 5 Phil. & Mary. Drapery. 32.

That every Citizen of London may carry Leather; or go with their Victuals, Wares or Merchandises to any Fair or Market, notwithstanding any ordinance in London made or to be made, 3 H. 7. cap. 9.

That Fishers sell their Herrings freely at Tarmouth; and that Londoners who buy them, sell at a certain price of gain when they have bought them, 31 E. 3. Statut. de Callis cap. 2. Fishers 9.

The Mayor and Wardens of the Sheermens of London, shall enter and search the Workmanship of all manner of persons using the broad shear, as well for Fustian as Cloth; and for the execution of that Act as well of Denizens as Foreiners and Strangers. 11 H. 7. cap. 27.

That the Mayor of London and the Wardens of the Tallow-Chandlers, shall search all Oyls, that they be not mixt, and they to have the punishing of them: and

and so in all other Towns, 3 H. 8. Cap. 14 Oiles, 1.

What wages Water-men shall take upon a passage to divers places from London, 6 H. 8. Cap. 7. and eight persons of the Water-men to be appointed yearly by the Mayor of London, to be the Overseers and Rulers of all Wherries betwixt Gravesend and Windsor, 2 and 3 Mary, Cap. 36.

SECT. III.

Apprentices.

IT was enacted that none should be an Apprentice within a City or Burrough, if his Father could not expend of Rents or Lands 20 s. per Annum, and that his Friends should be imprisoned for a year, and fined and ransomed, and he who receiveth such Apprentice to forfeit 4 l. 7 H. 4. Cap. 7. and after London is excepted; and the Customs shall be at the Kings will, 8 H. 6 Cap. 13. And afterwards the Citizens of Norwich are excepted out of the first Statute, 11 H. 7. Cap. 9. 19 H. 7. Cap. 17. and that every one may take or put to Apprentice in the Treda of Worsted-makers within the County of Norfolk, any woman, notwithstanding 12 H. 7. Cap. 11.

Note that in the Statute of Labourers, nothing is spoken of Apprentices, but as it seems referreth all to the wages of Towns and Burroughs; but speak of Labourers and Artificers which are for husbandry; and if Artificers, as Free Masons, rough Masons, Bricklayers and such Artificers, and their Apprentices and Servants working within London, shall not be rated by the Statute; but if they work out of London, then they shall take such wages as the Statute appoints. Statute 7 H.

That every housholder of the age of twenty four years who dwells within any City or Town Corporate exercising any Art, Myserie or manual Occupation, may retain the Son of any Freeman not occupying husbandry in it, or of another Town, to be bound as Apprentice according to the Custome of *London* for seven years at the least; but of a Merchant traffieking beyond the Seas, or Mercer, &c. shall not retain any there to be instructed in their art, &c. if the Father or Mother of such Apprentice, or the Apprentice himself have not forty shillings Lands or Tenements in Fee or Freehold, and the same to be Certified; and that in other Towns and Markets, the Sons of the Inhabitants shall be Apprentices, &c.

And if a Merchant take an Apprentice; &c. That then his Parents ought to expend three pounds *per Annum*, &c. in Lands, &c. and that all others may be Apprentices to meaner occupations out of Burroughs, &c. although their Parents have not any Lands; with a proviso that the Citizens of *London* and *Norwich* may retain Apprentices according to their Customs before the Statute, and that the Retainment of others be according to the Statute, and not otherwise. Stat. 5. *Eliz. Cap. 4.*

SECT. V.

Attaints and Inquests.

NOne shall be impanelled, sworn or summoned upon an Inquest in any Court within the City, if he have not Lands or Goods of the value of forty Marks; or for Land or Action personal, where the Debt and Damages exceedeth forty Marks; if he hath not Lands or Goods to the value of 100 Marks, the party.

112

party to have avail thereof by way of Challenges, and such persons impanelled to forfeit in issues 12 d. and so to double, &c.

And that upon a false verdict there, Attaint shall be by Bill in the *Hustings*, and the form how they shall proceed, and who shall be Judge, and that the Trial shall be there and not elsewhere, and that none of the grand Jury or petty Jury shall be punished otherwise than is limited by the Statute: that every of them shall forfeit 20 pound, and be imprisoned by six moneths: and that upon affirmance of the first verdict, that they may enquire if any of the petty Jury took reward, &c. and that he lose *decies tantum*, and to be imprisoned, and disabled to be sworn as a Juror; and an Action of Debt is given for the Plaintiff in the attaint, (who hath lost his Debt or damages) to sue where he will; and if the Plaintiff be *non-suit* in attaint, that he shall be imprisoned, and shall be fined, and party Enquests shall be in attaint, where one of the parties is a stranger. Stat. 11 H. 7. Cap. 21. attaint. 13.

Note that in attaints in *London*, he who is worth an hundred Marks, shall be a sufficient Juror, without Challenge upon the Statute of 23 H. 8. and that the Justices shall sit at the *Guild-Hall*, or other convenient place within the City, to swear the grand Jury, and to take the verdict; and that *London* shall not be compelled to sue attaints, but within the City. Stat. 37 H. 8. Cap. 5.

A Challenge that the party hath nothing within the Ward, shall be void, Stat. 7 H. 7. Cap. 4.

The Sheriffs of *London* may return pannels in the Exchequer, of Citizens having goods of the value of an hundred Marks, to be tryed at St. *Martins* by *nisi prius*; and if it be before any Justice otherwise to be tryed, then he may return Jurors according to the usage, without forfeiture, 5 H. 8. Cap. 35. Jurors 14. 15.

All

All persons within Cities or Burroughs who are worth 40 pounds, shall be admitted Jurors in Trials of Murders and Felonies in every Sessions and Gaol-delivery to be holden in and for the Liberty, *Proviso* that it do not extend to any Knight or Esquire who dwells there, 23 H. 8. Cap. 13. Jurors. 16.

Oyer and *Terminer* shall be of all Felonies throughout the whole Realm, without prejudice to the Franchises and Liberties, and to the five ports, but they to enjoy their Liberties as before, 2 E. 3. Cap. 7. *Oyer* 3.

SECT. VI.

Of the Commission at St. Martins.

N*isi prius* shall be at St. Martins le grand. Book Entries, 402 P. 2.

Of Error sued in *London*, the Record shall be brought before the Justices of St. Martins: and here it shall be certified by the Recorder by word and not otherwise, and it shall be accepted by the Court for the Record; and if he fail in any word of the Record alledged, it shall not be amended, 20 E. 3. 48. P.

Whatsoever the ancient practice in this place was, there is no such thing at this day, as any *Nisi prius* tryed there. It is a Liberty wherein there is a Court of Record kept weekly every Wednesday for the tryal of all personal actions of what nature soever; and there is a Court-house and a Prison. It is distinct from the Government of the City of *London*, although it be within the Walls thereof, but is within the Deanry of *Westminster*, and subject to the Liberty thereof, and hath a particular Jurisdiction within it

self. The leading process is a *Capias* against the body, or an Attachment against the goods: so that a mans goods may be arrested there in his own house upon the first process, and carried away aswell as his body, if he be not taken; which is one of the kinds of *Summons Jus*; as the practice of all Antique Liberties or Franchises is.

SECT. VII.

Where by the Custome of London a man may wage his Law, Et e contra.

IN Debt for board in *London* brought in the Common Pleas or Kings Bench, the Defendant may wage his Law; although the Custome be contrary if the action be brought in *London*; for such usages are not maintainable here, but within the Court where the Custome is, *M. 1 E. 46. P. 1.*

In Debt brought in *London*, the Defendant did wage his Law; and the Plaintiff shewed that there is a Custome in *London*, that if the Plaintiff can shew any Bill or Writing sealed and delivered by the Defendant, testifying the contract, that the Defendant shall not be received to wage his Law; and shewed such a Deed of the Defendant which did not maintain his declaration, nor to be the same contract; and the Recorder was there, and read the Custome, and the Court said, that if the plaint and the specialty had agreed, that the Defendant should have been ousted of his Law. As in debt at the Common Law, for the buying of a Horse for ten pounds, if the Defendant will wage his Law, the Plaintiff shall stop him by a special proving the contract: so of a Receipt, if the Defendant say

say he was never his Receiver, and tender to wage his Law, the Plaintiff may estop him, by shewing a specialty, 39 H. 6. 34, 35.

By the Custome of *London* in Debt upon contract, the Defendant shall not be admitted to wage his Law, if two of the City will come and swear before the Mayor and Aldermen, that the contract was true: who did so, whereupon the Defendant brought a Writ of Privilege to the Sheriff of *London* to bring the Prisoner with the cause; and the cause of privilege was, because he was indicted in B. of a trespass done in M. against the Peace; in which case he ought to pay a Fine to the King, and therefore it shall not be intended covin for the avail of the King; and also because it was set by twelve Jurors.

But if it were a suit between party and party which gives cause of the privilege, there the same Term, because the Record is in the breast of the Justices, they will examine if the suit here were by covin, and how the warrant of Attorney, and all the Circumstances before the privilege shall be allowed: But if the suit be entered in another Term, then the covin shall not be examined, but the Court shall believe the Record, so as the privilege shall be granted: and so here, because the King is party, 2 Aff. 3. 16, 17.

A stranger may wage his Law against papers of Citizens who claim Debts, without putting the matter to enqueue, 38 E. 3. Cap. 5.

In Debt upon account before Auditors assigned: where no such Auditors were, nor any Receipt there upon Examination of their Attorneys, within Cities and Burroughs, the party may be received to wage his Law at the discretion of the Justices, 5 H. 4. Cap. 8.

SECT. VIII.

Feme sole Merchant.

A *Feme Covert* shall have actions without her husband by the Custome of the City of London, and an action may be brought against such a woman sole Merchant without naming her husband, 1 E. 4. P. 1. 35 H. 6. 38.

Where a plaint is entred against a husband and wife in London, because the wife is a sole Merchant, or against another for finding of better Sureties there; if the suit be here in trespass or otherwise, and the wife appeareth upon an Exigent, upon an *Habeas Corpus*, or cometh in upon a *Cepi Corpus*, so as she cannot make an Attorney here, although the plaint be upon the Custome only, for which no remedy is at the Common Law, yet the prisoner shall be discharged of the first suit, and shall be sent to the Fleet. And if he who is outlawed coming to sue forth his Charter of pardon be arrested, he shall have his privilege; and to it is of one who cometh to sue forth a writ of Error, he shall have his privilege here, if he be arrested in the Kings Bench, M. 9 E. 4. 35, 36.

Where a gift of goods by a woman is pleaded in Bar in an action of Trespass brought, if the Plaintiff saith that the woman was his wife at the time, if he say that the Custome of London is that women are sole Merchants, &c. the same is a departure, H. 7. 21 H. 18. P. 1.

In London, Debt upon a simple contract is good against an Executor, M. 1 E. 4. 6. P. 1.

SECT. IX.

Where by the Custome of London an Action will lye before the day to finde better Sureties.

IT is ordained, that a Merchant may cause his Debtor to come before the Mayor of London, or of any other Town, and a Clerk by the King appointed to acknowledge his Debt, and the day of payment, &c. Vid. Stat. Burnel. 11. E. 1. Recogn. 1. And afterwards it is enlarged by the Statute de Mercatoribus, and a more speedy remedy is given, 13 E. 1. Recogn. 2.

The Custome of London is, that if a man be Fugitive who is indebted, that the Creditor may arrest him to finde better Sureties; but he shall not recover before the day of payment, 5 E. 4. London 24.

Where one is arrested in London to finde better Sureties, if the suit be here in trespass or otherwise, and he comes in by *Capi corpus*, although that the Plaint be upon the Custome only, for which remedy is at the Common Law, yet the prisoner shall be discharged, 9 E. 4. 35.

The Custome of London is, that one may be arrested before the day of payment to finde better Surety, 11 H 6. 3. p. 1.

SECT. X.

Of Market Overt.

THe Custome of *London* was pleaded, that they have a common Market for all Goods, Chatrels and Merchandizes bought and sold in every part of the City, in all streets and shops upon every day except Sunday, from the rising of the Sun to the setting thereof, and that he bought at two of the clock in his open shop. Brook Entries, 317. p. 1.

The Custome of *London* was pleaded in trespass, to have a Market every day, and said that the Merchandizes were brought to his shop, and that he sold them to him, B. entr. 606. p. 1.

Note that every one in *London* claimed to have a Market every day of the week in his shop. M. 35 H. 6. 33.

Prescription to hold a Market every day in the week is good in *London*, although the Sunday be forbidden by the Statute, and that it shall be forfeit.

SECT. XI.

Of Covenant without Deed.

AN action of Covenant lyeth in *London* without a specialty, and divers other actions by Custome, which do not lye at the Common Law: and of small contracts under forty shillings, for which an action doth not lye by Writ. H. 14 H. 6. 26. p. 1.

SECT.

SECT. XII.

Of Concessit solve, upon Contracts made at Sea.

OF a contract made beyond Seas, and upon account here between the Parties; if the party by Bill grant to pay it upon the recoming; *Concessit Solve* lyeth in *London* upon the recoming: for before that accompt there was no remedy within *England*, nor no remedy for it at the Common Law: and although that the bill doth recite the Merchandize, yet the *Concessit Solve* doth not rehearse the Merchandize sold, but generally for certain Merchandizes, Goods and Chattels, *sibi primo vendit, concessit Solve.* p. 38 H. 6. 30. p. 1.

SECT. XIII

Taking Goods to pledge.

IT was agreed, that the Custome to keep goods of any person put to him in pledge by the Custome until he be paid, is not good: And if it were a Custome, it ought to be by antient Charter of the King, and by continuance after. But the Custome of attaint in *London* is good, and also that the Creditor may arrest such Goods which the Debtor hath in his possession; and that if none come within the year to make claim, that then they shall be apprised for the duty; And that a Feme sole Merchant may be sued without her Husband (as is said before,) and every

every one in *London* claims to have a Market Over every day of the week in his Shop.

But note, that though by the Custome of *London* every mans shop is his market, it is for such Goods as belong to his Trade: as if a Gold-smith buy stollen plate in his own shop, it is justifiable; but if he buy it in an Alehouse or any other Tradesmans shop, it is otherwise.

SECT. XIII.

Of Mainpernors for the Defendant.

THE Custome of *London* is, that he who is Bail for another in a plaint of Debt or Trespas to answer the action, that if he be condemned, that the Plaintiff shall have execution as well against the Bail, or one of them, as against the Principal, at his Election. And it was holden that in such case he may maintain for the charge which shall be upon him.

The Custome of *London* was alledged, that if any matter be pleaded to issue, which cannot be tryed by those of the City, that then the party shall be examined upon it: and then that Judgement shall be according to that which is found by the examination: And if the party refuseth to be examined, that then Judgement hath used to be given against him. *Book Entries.*
203.

SECT. XV.

Of Sequestrations.

BY the Custome of *London* in an action of Debt, the Defendant shall have four defaults: and if he cannot be found, but hath shut up this Shop and is gone, a precept shall be to a Serjeant at the Plaintiffs request to Sequester the goods in his house, 11 H. 7. 2. p. 2.

SECT. XVI.

Contribution.

DEbt was upon the Custome in *London*, because the Plaintiff and three others were bound jointly and severally in one Bond, and one pays all the Debt or part, or the whole is recovered against him; he may have an action of Debt for the partition against the other Obligors. *entr.* 1660.

THE



THE SOLLICITOR

In The
Court of Requests,
Usually called
The COURT of CONSCIENCE,
for the Recovery of small Debts, and relief
of Poor Debtors in London.

CHAP. XXI.

Touching the first beginning of this Court, it is Recorded, that *primo Februarii, Anno 9 H. 8.* an Act of Common-Counsel was made, that the Lord Mayor and Aldermen of the same City for the time being, should monethly assign two Aldermen and four discreet Commoners to be Commissioners to sit in the same Court twice a week, *viz.* Wednesday and Saturday, there to hear and determine all matters brought before them between party and party, (being Citizens and Freemen

of *London*) in all cases where the due debt or damage did not exceed 40 shillings.

This Act was to continue but for two years then next ensuing; But being found Charitable and profitable for the relief of such poor Debtors as were not able to make present payment of their Debts, and to restrain malicious persons from proceeding in their wilful suits, and also to be a great ease and help to such poor persons as had small debts owing to them, and were not able to prosecute suits in Law for the same elsewhere, The same Act hath since been continued by divers other Acts of Common Counsel; and hereby (besides the said two Aldermen monethly assigned,) the number of Commissioners were increased from four to twelve; and so by that Authority the same Court continued till the end of the Reign of Queen *Elizabeth*, &c.

And then divers people, being Citizens and Free-men of *London*, (contrary to their Oaths formerly taken,) repining at the Authority of the same Court, and not regarding the expence of any charges how great soever, so they might have their desires upon their poor Debtors; and being often animated thereunto by divers Attorneys and Solicitors (for their own particular gain) did daily commence suits for such petty Debts and Causes against poor men, (Citizens and Free-men of *London*;) in the high Courts at *Westminster*, or elsewhere, out of the said Court of Requests, to avoid the Jurisdiction of the same Court, and to Bar the said Commissioners from staying such suits, and examining the said causes, and thereby caused the said poor men many times to pay six times as much charges as their principal Debts or Damage did amount unto, to the undoing of such poor men, their Wives and Children, and also to the filling of the Prisons with the poor

so sued, where otherwise they might have gotten their Debts in the said Court of Requests for very small charge and little trouble.

For remedy for the same, and for the strengthening and establishing of the said Court, an Act of Parliament was made in *Anno primo Jacobi Regis*, that every Citizen and Freeman of London that had or should have any Debts owing unto him, not amounting to forty shillings, by any Debtors (Citizens and Freeman of London) inhabiting in London or the Liberties thereof, should or might cause such Debtors to be warned to appear before the Commissioners of the said Court; and that the said Commissioners, or the greater number of them, should from time to time set down such orders between such parties Plaintiff and Defendant, Creditor and Debtor, touching such debts not exceeding forty shillings, as they should find to stand with equity and good conscience.

But since the making of that Act, divers persons (intending to subvert the good and charitable intent of the same,) have taken hold of some doubtful and ambiguous words therein, and have wrested the same for their own lucre and gain, to the avoiding the Jurisdiction of the same Court, contrary to the good and true meaning of that Act.

For remedy wherof, and to the intent that some more full and ample provision might be made, for the furthering, strengthening and establishing of the said Court, and for the better relief of such poor Debtors, another Act of Parliament was made *Anno tertio Jacobi Regis*; whereby the Authority of the said Commissioners was much enlarged, viz. That every Citizen and Freeman of London, (and every other person and persons inhabiting, or that shall inhabit within the City of London or the Liberties thereof;

thereof, being a Tradesman, Victualler, or Labouring man,) which have or shall have any Debts owing to him or them, not amounting to forty shillings, by any Citizen or Freeman, [or by any other person or persons, (being a Victualler, Tradesman or Labouring man) Inhabiting within the said City or the Liberties thereof] should or might cause such Debtors to be warned to appear before the said Commissioners of the said Court of Requests; and the said Commissioners, or any three or more of them shall have power to set down such orders between Plaintiff and Defendant, Creditor and Debtor, touching such Debts not amounting to forty shillings, as they shall find to stand with equity and good Conscience: and also the said Commissioners, or any three or more of them, have power (by the said Act) to administer an Oath to the Creditor or Debtor, and to such Witnesses as shall be produced on each part, and also to commit to Prison in one of the Compters such Creditor or Debtor as shall not appear upon lawful summons, or not perform such order as the said Commissioners or any three or more of them shall set down. And by this last Act the said Court of Requests (commonly called the Court of Conscience) is established and continued to this day.



THE
SOLLICITOR
In the
COURT of the HUSTINGS,
Holden in
GUILD-HALL
For the CITY of LONDON.

CHAP. XX.

AS touching the antiquity of this Court, we find it famous and antient, insomuch that the compiler of King *Edwards* Laws, doth much magnifie it, in these words: There ought alwaies in the City of *London*, which is the head-City of the Kingdom and of the Laws, to be held upon every Munday weekly, a Court of our Sovereign Lord the King at the *Hustings*. It may well be inquired into, how it came by this name, and what the name signifies,

signifies : it is in Records diversly written in Latine, as *Hustingum*, *Hustingus*, *Hustingia*, and sometimes (though corruptly) *Hustangus*. It is the most antient and the highest Court of Justice of the famous City of *London* : the name it takes from the place of keeping that Court, (as *Prytanæum* did at *Athens*;) for (*Hus*) among the old Saxons signified an House; and so we spell *Huswife* still : and *Ding*, *Dhing*, or thing, *D* being by the Saxons, and still amongst the Dutch, pronounced as *Th*. so that *Dhing* or thing, signified a cause or plea; and *Hustthing*, signified the house of causes or pleadings : whereupon in the Saxon tongue *Thingere*, *Thingarius*, signified an Advocate or Lawyer; which others would perchance rather derive from *Thung*, or *Gedihung*, which signified honourable, for that the most honourable Magistrates of the City held their Court there, as the Lord Mayor and Sheriffs, and in the Sheriffs absence six of the Aldermen at this day do sit in Court there. For the antiquity of this Court, it was founded and erected of old, after the fashion and manner, and in the memory of the antient City of *Troy*; and even unto this day, (if we will credit venerable Antiquity) contains within it self the Laws, Rights and Dignities, Liberties and Royal Customs of that antient and great *Troy*: there be handled the intricate Accounts, and the doubtfull pleas of the Crown, and of the Court of our Lord the King of the whole Kingdom aforesaid: and this Court hath even to this day preserved her own antient Customs most inviolably: Thus saith my Author; but I doubt he gives them somewhat more measure than due.

Nevertheless some things there is in the *Hustings* which might give countenance to this comparison of old *Troy*, that is, the well-known weight used for Gold and Silver, caled *Troy* weight : and it is probable

that by Accounts is meant measures rather than Accounts, the word *Compta* signifying measures rather than Accounts; and *Comptus Ager* signifies a Field surveyed, whose quantities were set down in the *Terrier*: and here perchance was kept a general survey of all the Lands in the Kingdom, as now in the Doomesday-Book in the Exchequer, the pattern whereof it's probable the Conqueror took from the *Hustings*.

And certain it is, that the weight called *Troy-weight*, was in the Saxons time called the *Hustings* weight of *London*, and kept there in the *Hustings*.

The former Law of the said King *Edward* the Confessor commands the *Hustings* Court to be kept every Munday, though at this day it be held upon the Tuesday; which that it may not be perceived by the Monuments and Rolls of the Court to have differed too much from the first Institution, is yet said and written to be held upon the Munday.

It is as it were distinguished into two Courts: for one week the Judges sit upon pleas merely real; And the next week upon actions mixt; or of any other nature whatsoever; so that all Lands and Tenements, Rents and Services within the City of *London* and the Liberties and Suburbs thereof, are pleadable at Guild-hall within the same City in two *Hustings*; one whereof is called *Husting. de plito terra*, *Husting* of pleas of Land; and the other *Husting. Commun. placitor.* *Husting* of Common Pleas: the which *Hustings* are held in the Guild-hall before the Mayor, Sheriffs and Aldermen of the said City every week, the daies Munday and Tuesday.

If a man be impleaded in the Common Pleas of Lands in *London*, the Tenant shall say that the Lands are within *London*, and time out of mind, &c. every one hath been impleaded for Lands there within the City

City, in the *Hustings*, before the Mayor and Sheriffs, &c. and not elsewhere : and so it is in the five ports, without shewing how the Franchise began, upon which the prescription is grounded : for the Liberties of London are confirmed by *Magna Charta*; *Quod Civitas habet omnes libertates suas illas*. And observe, the plea is only in the *Hustings*, *M. 2 E. 4. 17, 22.*

Tenant in Tail of Lands in London, devised his Lands to his wife who is made Executrix, and proved the Will in the *Hustings*, and yet claimed her Free bench, by alledging that the Custome is, that the Wives in London, after the death of their husbands, had used to have the chief house in which the husband dwelt, to hold for so long time as she remained unmarried, as their Free bench, in the name of dower, into which houses, the wives after the deaths of their husbands might enter by the Custome, without any other Execution or Livery; and shewed by replication in an Assize, that she entred, where the Tenants in the Assize pleaded a discent in Bar, to stop the Plaintiff of her Fee bench, if there were any such Custome : and the Defendant by rejoinder pleaded, that the Plaintiff proved her husbands Will, and that she was in by force of the devise, and traversed, without that, That she was seized as of Free bench : and by the opinion of the Court the same was good, without shewing that the wife had sued forth Execution upon the Will; and afterwards the issue was joyned upon the Bar, that the Defendants were in without wrong or disseisin : and the Assize found the estate in Tail, and that the Defendants were not seized by disseisin; and the Plaintiff was Barred in the Assize. And not there, that it is said, that in an Assize in London, they use to set down the year and day of the disseisin, which is contrary

to other Assizes and actions real and mixt, 20 *Ass.* 4
Pl. 16

Since that real actions have grown out of use by the trying of Titles, and recovering of possessions by *Ejectione Firmæ*, the antient Customs and practice of this Court of the *Hustings* in *London* have much declined, if not in some measure ceased. But as it now standeth, I leave it.

THE



THE SOLLICITOR

In The
SHERIFFS COURT
In
LONDON.

CHAP. XXI.

THe Two Sheriffs of *London* do keep each of them a Court of Record within the same City by prescription and Custome, where they hold plea of all personal actions : and have belonging unto these Courts two prisons called the Compters, the one situate in Wood-street, and the other in the Poultry at the lower end of Cheap-side.

They have two Court-daies a-piece in every Week, viz. for the Wood-street-Compter on Wednesdaies and Frydaies; and for the Poultry-Compter on Thursdaies and Saturdaies.

In a plaint of Debt levied before any of the Sheriffs, the Custome is, that the said Sheriffs *ore Ten*s send to the Serjeants of the Compter either to

summon or attach the Defendant without warrant and upon *Nihil* returned within the City, that then the Serjeants, and every of them by the Commandment of the Sheriff, have used to Attach and Arrest the Defendant, to have his body at the next Court before the Sheriff at the *Guild-Hall*, &c.

They do certify their Records in that manner; but the usual practice is to enter an Action in the Office for that purpose at one of the Compters: which Action must be carefully entred, for it is the Original of that Court by which you must declare, and from whence there can be no variance: for if the Action and Declaration agree not, a non-suit follows: and when an Action is entred, then any one of the Serjeants may Arrest the Defendant, and bring him into custody until he finde Bail to answer the condemnation; which Bail is taken by one of the Clerk-sitters at the Compters, who constantly attend in that Office *alterius vicibus*.

The Plaintiff ought to declare the first Court after the Defendant is Arrested; though further time is usually given *ex gratia Cur. per mot. Attorn. qui*, &c. But if the Plaintiff have no Attorney the first Court, the Defendant may non-suit him if he please.

And if the Defendant be in the Compter. he is brought to the Bar to plead unto the Plaintiffs Declaration by a *Duci facias*, as they call it, which is but the Sheriffs *mandate* made by the Clerk of the Papers.

If the Defendant be a Freeman, he hath four defaults, that is, to appear on the fourth Court after Bail entred; so that he hath three defaults Exclusive: but these defaults are only allowable in actions of Debt, Account or Covenant broken, and in no other case.

In

In *London* the general assumpsit differs from other Courts: for in an Action on the Case upon any Assumpsit in *Westminster* or elsewhere, the Defendant cannot wage his Law at all; but here in *London* the general Assumpsit is more beneficial for the Plaintiff, and differs from other Courts, in that the Plaintiff need not to express any particular Consideration in it, or prove his just precise demand: but in a plea of Debt without specialty, the Defendant may wage his Law as well in *London* as in other Courts.

They have in each Court a Steward or Judge who is learned in the Laws; and besides some particular Customs, their proceedings are in all cases generally following the president of the Common Law at *Westminster*. But of their particular practice take this following accompt.

SECT. II.

The Particular Practice of the Sheriffs Court in London.

THe Actions usual in this Court are either Pleas of Trespass, Trespass on the Case, Debt, Accompt, breach of Covenant.

The greatest difficulty is in the entry of Actions; for the Action is the original from which there is no variation.

First, Actions of Trespass: which are either for Assaults, false Imprisonment, *Domum* or *Clausum* fregit, coming into another mans house or yard, for taking away another mans goods, or for spoyling of goods, or trespass upon ejectment for title of Land.

If an Action of Trespass be entred against a man
and

and his wife, and the wife only arrested, and Bailed, or in prison, the Plaintiff may proceed against the wife, notwithstanding the husband is not arrested: and the Bail for the wife are lyable to pay the recovery, if the wife absent herself out of the way.

Secondly, Trespass on the Case: either for words, Book-debts, all *Assumpsits* or promises, all *Quantum meruit*s; also for Rent *sine* Lease, or Trover and Conversion.

For words, whether actionable or not, *vide* Howell *sur* actions of Slander, and also concerning Awards.

In actions of Trover you must prove Property, Possession, or Conversion (being as one) and demand of the goods before the Action brought.

If two or three men or more buy Commodities jointly together, the Action must be entred against them all. There you cannot proceed, unless there be Bail for all the Defendants.

If an action of the Case be entred against a man and his wife, you cannot proceed against the wife (if Bailed) till there be Bail for the husband.

Note that if the husband be arrested upon an action of the Case or Trespass against him and his wife, he shall be compelled to put in Bail for his wife.

Thirdly, Actions of Debt upon Bond or Bill, commonly called Specialties, upon Lease for Rent, upon Judgement or Statute.

If two men be bound jointly, and not severally, *per* Bill to pay 10 *l.* you cannot sue the one without the other; for the Action must be joyn't against both: yet if one dye, the Survivor shall be sued.

If *A.* be bound to *B.* to pay 100 *l.* at four several payments by Bill, but not in a penalty, the Bill cannot be sued until the last payment be expired: but it is otherwise upon Bond; for there if *A.* be

bound to B. by obligation of 200*l.* for payment of 100*l.* at four several payments, there upon the first breach of non-payment the obligation may be sued ; so likewise a penal Bill.

Note that the penalty upon Bond or Bill is not given by the Court, but only the Principal, Interest, and charge of the Court : unless upon Obligations with special Conditions, as Obligations upon Counter-security, or performance of Covenants or the like : unless the Defendant plead *non est factum*.

You may declare upon a Judgement either in *Guild-Hall*, or any other Court of the like nature ; but not upon a Judgement in any other Superiour Court.

Note that the Defendant upon an action of Debt hath liberty (if a Freeman) upon his putting in Bail to mark his four defaults, which will cost 4*d.* more, (than the fees of the Bail) so that he may chuse to appear by an Attorney till the fourth Court-day after his putting in Bail : if he appear not then, Judgement passeth against him by default, and execution in the afternoon.

If the Defendant be a Foreiner and Bailed, if he appear not the first Court-day by his Attorney, Judgement passeth also against him and his Bail.

The Plaintiffs charge.

To his Attorney, and for the Declaration and Court,

3*s.* 10*d.*

Judgement *per* default,

4*s.* 4*d.*

The Plaintiff alwaies pays 4*d.* for not filing his Bond in Court.

Fourthly, *Actions sur Account* : which are either for receiving of Goods and Merchandize, and not giving account thereof, or for receiving of money, or for both upon one Action.

But

But the Bail for the Defendant are not lyable to pay the recovery, but that the Defendant shall accompt. *Quere*, whether a special Action of the case will not lye against the Bail, upon their engagement at their becoming Bail, to bring forth the body of the Defendant, or pay the recovery.

Fifthly, breach of Covenants, either upon Covenant by Indenture, or Covenants by Articles under seal, or any other Covenant under seal.

If a man be bound by Indenture to pay 20 *l.* quarterly, and a Covenant also for the payment of it quarterly, together with a Bond for performance of Covenants; the Lessor may sue the Lessee either upon an Action of debt for his Rent, and so declare upon the *reddendum*; or upon the Covenant, upon which he may sue upon every breach: but if he sue once upon the Bond, and have Judgement, he shall sue no more upon the Bond, for the Bond can be sued but once.

If *A* be Executor or Administrator, the Action must so be entred, or if the Executor of an Executor or Administrator: and so also against the Defendant.

Note that a man may be Executor in his own wrong, and may be sued if he receive and intermeddle with the estate of the Intestate.

Or, if *A* be the Assignee of *B*, the Action must so be entred; and so against *C* the Assignee of *D*.

Note that if *D* be the Assignee of *C*, and *A* takes Rent of *D*, and accepts of *D* as his Tenant, *C* then is out of fear to be sued either for non-payment of Rent, or breach of Covenants. Again, if the Rent be 100 *l.* *per annum*, and *D* finds that the house will not yield 50 *l.* *per annum*, *D* may assign his right and interest to *John Doe*, and *A* shall not after the Assignment sue *D* for any more Rent: the reason being, that he that admits of one Assignee, admits of twenty.

An Action remains in force sixteen weeks ; and after bail put in, sixteen weeks without Declaration : if declared, good a year and a day : if Issue joyned, in force ever afterwards, and the Plaintiff at all times at liberty to proceed to tryal : if Judgement obtained, after a year and a day it must be revived.

The withdrawing an Action of Trespafs, or Trespafs on the Case, or Trespafs upon Ejectment, 6 d. if Debt, Accompt, or breach of Covenants, 12 d.

The withdrawing a Declaration 16 d. and so if at issue, or after summons of the Jury upon the pannel, 16 d. if withdrawn by consent, alwaies 4 d. more *ex assensu partium* ; then the Defendant cannot have Judgement for charges, otherwise he may.

Note, the Plaintiff hath four Court-daies to declare against the Defendant, unless the Defendant be a prisoner, if he see his Attorney, otherwise non-suited the very first.

There is a grand abuse, when Actions are left standing, and not withdrawn after arrest : by which means oftentimes a poor prisoner is put to great damage and expence : the Sheriffs withal wronged of their due, to whom the Fee for withdrawing belongs. Most commonly the parties that injure most this way are Serjeants and their Yeomen. As to the prisoner, there being many men of one name ; as admit *John Cooper* or *John Smith*, or any other were arrested, the Plaintiff and Defendant perhaps agree ; the Serjeant demands money for withdrawing the Action, which is given him : the money is purs'd up, no Action withdrawn, because it is not known whether the Defendant be arrested or not. It happeneth afterwards that another man of the same name is arrested, and cast into the Compter : after some short time there, happily agrees with his Plaintiffs, who withdraw their Actions, The Defendant coming to the

the Clerk of the Papers for his discharge, the Clerk searching for sixteen weeks, finds within that time an Action entred against him, being an Action against a man of the same Name : and he must either give bail to that Action (though he be not the party) or must lye in the Compter until the next Court-day for that Compter, to non-suit the plaint before he can be discharged : which is a great expence, cost and charge to the Defendant, being a prisoner ; and by this means the Sheriffs are injured of their Fees. This if well looked into, poor Prisoners would not suffer as sometimes they do.

The charge of the Plaintiff to Tryal, Judgement and Execution.

The Action and Arrest,	1 s. 4 d.
The Attorneys Fee, Declaration and Court,	3 s. 8 d.
The issue,	4 s.
The summons of the Jury,	4 s. 8 d.
The Counsel (if but one,)	3 s. 4 d.
The Subpœna,	2 s.
The Juries verdict,	4 s. 6 d.
The Judgement,	2 s. 6 d.
The Execution,	1 s. 4 d.

But then if the cause be brought again from the Mayor's Court, 4 s. 6 d. more, which is allowed him for his costs of the *Remandetur*.

Note, if you declare upon a Bond, you pay 2 d. more upon the Declaration ; and if Executor or Administrator, 4 d. 6 d. or 8 d. more.

Note that if the Jury be a petty Jury under forty marks, it is but 3 s. 8 d. summons, and 3 s. 6 d. Verdict : and for every second, third or fourth summons, 2 s. a piece for a grand Jury, and 12 d. a-piece for a petty.

Some-

Sometimes an Execution is 2 s. 4 d.

After Judgement given in Court, you may have Execution presently against the body or goods of the Defendant, and the next day against the Bail; which will cost 4 d.

If you take the Defendant in Execution, you cannot afterwards have a *Fieri facias* against the Defendants goods.

If you take out 3 *Fieri facias* against the goods of the Defendant, it is 2 s. 4 d. For the executing thereof, you are forc'd to agree with the Serjeant; so likewise for the return of the Inventory, with the Clerk of the Papers. If the goods in the Inventory appraised by two men amount not to the sum in the Judgement, you may afterwards have Execution against the body of the Defendant for the remainder, or against the Bail.

Note that if the Bail be in execution in the Compter, if the Defendant come and submit his body, the Bail will be discharged: or if at any time before they reprieve the Defendant to the Action, they are freed.

Also the Bail may of themselves carry the Defendant to prison without an Officer, and reprieve him to the Action, paying the Clerk 4 d. for marking the reprieve; and so discharge themselves.

Every Declaration that is special you pay 4 d. per sheet for drawing, and 4 d. per sheet ingrossing: besides 8 d. the Court Fees; and if Counsel, 3 s. 4 d. which is allowed by the Court.

Every Counsel extraordinary, though the Plaintiff pay 10 s. or 20 s. he shall be allowed by the Court but 3 s. 4 d. a Counsel: but the Court allow three or four 3 s. 4 d. if on good cause.

All other charge is lost: as what you pay to the Quarter-man for swearing the Witnesses, which is of courtesie, not due, who is to attend the Court;
also

also what money you pay above 12 *d.* for the arrest is not allow'd, and also what you pay for taking the Defendant in execution, or for serving the *Fieri facias* against the goods of the Defendant, and all charges issuing thereon.

The Plaintiff prayeth for continuance of his cause after summons before the Court sits, but 8 *d.* if afterwards his Witnesses come not, and he moves the Court for a Continuance, then 4 *s.* 4 *d.* so likewise if the Defendant moves to put off a tryal, 4 *s.* 4 *d.* which is lost on both sides.

Note that every Carrier and Waggoner hath of course his return-day given him, if desired by his Attorney: charge four pence.

If the Plaintiff after the Defendant hath removed his cause, bring down the cause again by a *Procedendo*, for want of putting in Bail; his charge thereof he is allowed, and also 2 *s.* 8 *d.* for the allowance, and what other charge he is at more in relation to a tryal to his Attorney.

An Action usually is tryed in four Court-daies.

The Defendants Fees.

If the Plaintiff appear not the first Court-day after Bail to the action by his Attorney, he is non suited, (unless upon the Defendants marking' his four defaults :) and if the Defendant be a prisoner, no Attorney appearing, a non-suit without doubt.

The charge then of the Defendant.

Appearance,	2 <i>s.</i> 6 <i>d.</i>
Non-suit,	1 <i>s.</i> 4 <i>d.</i>
Judgement,	2 <i>s.</i> 6 <i>d.</i>
Execution,	10 <i>d.</i>
	<hr/>
	7 <i>s.</i> 2 <i>d.</i>
	16

If the Defendant put in Bail to an Action, he payes 16 d. but if it be against him and his wife, 2 s. 8 d. if there be no saving harmless upon Record: but if saving harmless, every saving harmless 4 d.

The Defendants Fees to a Tryal.

Appearance,	2 s. 6 d.
The copy of the Declaration,	4 d. per sheet.
Issue,	3 s. 8 d.

If the Defendant plead specially, he payes 4 d. per sheet for his special plea, and 4 d. per sheet ingrossing, 4 d. more for his imparlance, (and the Plaintiff like) and 12 d. more upon the issue; and it Counsel thereon, 3 s. 4 d. allowed.

Fee upon summons,	1 s. 8 d.
If Counsel,	3 s. 4 d.

The Defendant hath two wayes of Removal: the one by a *Levata querela*, into the Mayor's Court; the other by *Habeas Corpus*.

The charge of the *Levata querela* is 5 s. 10 d. for carrying up the Record, as you agree with the Clerk of the Papers.

The Defendant after the Plaint is certified up, may preferr his Bill there in the Mayor's Court, if he hath equity; or afterwards remove from thence by *Habeas Corpus*: but if the Defendant carry not up his Plaint in time, the Plaintiff will have a *Remandetur*, and so try it in the Sheriff's Court.

If the Defendant bring his *Habeas Corpus*, and remove it;

The Writ,	13 s. 7 d.
The allowance,	2 s. 4 d.
The Return,	2 s. 6 d.

If any other Actions, 4 d. a peice for the Allowance, and 6 d. a piece the Return.

Note that in all Actions under 4 l. 19 s. unless it be where tryal of title of Land is concerned, though the Writ be allowed, and the plaint returned, the Plaintiffs Attorney may proceed to tryal against the Defendant, notwithstanding the removal and return, and shall recover his Debt against the Defendant; but his Bail are freed: but it is otherwise if the Defendant turns himself over into the Kings Bench or Fleet.

Also observe that if there be six weeks between the Bail and issue joyning, the Defendant shall not remove his Plaint by Writ, but shall stand tryal below.

The Defendant after recovery against him by a Jury, may before Judgement mark his cause before the Lord Mayor, charge 5 s. 10 d. then he, or some other person, enters into a Recognizance double the recovery to the Chamber of London, to stand to such order as the Lord Mayor shall make therein.

After such order made by the Lord Mayor, the Defendant payes the Plaintiffs costs into the Court within 14 dayes, and gives security in the Compter by Bond to pay the Recovery, according to such order, to the Plaintiff: the Plaintiff pays for bringing down such order 4 s. 6 d. which charge is allowed.

The Plaintiff may sometimes get a *Procedendo ad Judicium* out of the Chancery, and so prevent the Lord Mayors Order: but it must be done before the Lord Mayor make his Order.

The Defendant cannot mark his cause before the Lord Mayor, if once remov'd by *Habeas Corpus*.

Note, if a recovery be obtained on Thursday, the Defendant must be sure to mark the cause before the next Court, else Judgement will be entred *sidente Curia*.

Note that if the Verdict be found for the Defendant,

dant, the Court alwayes abateth out of the Defendants costs, 3 s. 4 d. out of favour to the Plaintiff.

What Rule or stay of execution is entred upon record, you alwayes pay 4 d.

If a Free-man be arrested for a Debt under 40 s. though he put in Bail after Arrest, yet if he warn the Plaintiff to the Court of Conscience, though on Bond; that Court will order it, and compell the Plaintiff to lose his charge, and stand to their Order.

A Woman that exerciseth a Trade without her Husband is chargeable without him, as a sole Woman or sole Merchant; yet the Action must be entred against both: and it must be laid in the Action thus, *Jane his wife, who solely Merchandizeth without her Husband in the Art or Mystery of Scmpsters, or other Trade.* She may plead as sole, and shall have her law and other advantage by way of plea; and if condemned, shall be put in prison till she pay the Debt: the Husband nor his goods in such case shall not be charged nor impeached. The Bail for the Woman are liable to pay the Debt, if she absent her self.

If the Defendant be a prisoner, the Plaintiff may enter his Action against him, Fee his Attorney, send for him to Court by a *Duc. fac.* and proceed to trial. The charge of the *Duc. fac.* is 12 d. if an execution, 2 s. 6 d. and so if in *Ludgate*, which is a prison of ease to Free-men in respect of charge: the costs all one, and the proceedings as from either Compter alike.

A prisoners charge in going from the Compter to *Ludgate*, which is called his *Horse*, is 16 d.

Ministers, commonly called Clerks, have the like priviledge.

A *Scire fa. post annum*, for reviving a Judgement after a

year and a day, will cost usually, 12 or 13 s.

To the Attorney more, 2 s. 6 d.

And Judgement thereon, 2 s. 8 d.

If an Action be entred against a man, and the Plaintiff employs a Serjeant, gives him his Fee, and he afterwards arrests the party, and takes his word; the Plaintiff having feed his Attorney, may give a warning to the Quarter-man, charge 4 d. viz. warn in----Serjeant at Mace, to appear at the next Court, to shew cause why he arrested----and let him go without Bail to the Plaintiffs Action.

If the Officer appear not on the warning, the Plaintiff may have an Attachment against him, which is delivered to the Quarter-man, who by vertue thereof compells him to come in the next Court.

The Attachment, 1 s.

The Officer for serving, 1 s.

The Officer appearing, the Court orders him to pay the Fees of the Attachment and Officer, the Plaintiff proving the Arrest: then if the Officer desires further day to bring in the Defendant, with the consent of the Plaintiff it is granted.

Or the Plaintiff may bring a special Action of the Case against the Officer; but it must be entred against him as Serjeant at Mace, on the Action: then declare specially, setting forth the Debt, the former Action, and the Arrest: which three being proved, the Jury may or do commonly find the Plaintiffs Debt and Damages.

If a Defendant will, he may go on by Proviso; and if no issue, tender an issue after a declaration; and upon the Plaintiffs neglect of summons of one Court-day after issue joyned, the Defendant may crave his proviso, charge 2 s. and so proceed to trial: and his costs shall be allowed as before, all but 3 s. 4 d. only the Court will allow but 12 d. for putting in Bail.

If

If a man under Arrest give any monies to an Officer, it is of Courtesie, not of right, and not a penny thereof allowance.

Note that a Defendant may wage law to an action of Debt upon a *Concessit solvere*, unless for Rent.

Note that if a cause be removed by *Habeas Corpus*, pledge given for the Defendant before a Judge, the Bail are liable to all other Declarations given to the Defendants Attorney the next Term after Bail: and the Defendants Attorney will be compelled to receive the Declarations.

Attachments, properly called Forieign Attachments.

Every Attachment is made upon a plaint of Debt; as thus: *A.* oweth to *B.* 100*l.* and *C.* indebted to *A.* 100 *l.* *B.* entreth an Action against *A.* of 200*l.* and by vertue of that Action a Serjeant attacheth 100 *l.* in the hands of *C.* as the monies of *A.* to the use of *B.* which is returned upon that Action. It must be returned betwixt certain hours; for that another Attachment may happily be made after in the hands of *C.* so that *C.* hath no other way to avoid that other Attachment made in his hands, but by pleading the former Attachment made as aforesaid.

The Attachment being thus made and returned by the Serjeant, the safest and securest way for the Plaintiff is, immediately, or before the next Court holden for the same Compter, to Fee an Attorney: for although the Attachment be return'd and made upon that Action of Debt, where four defaults are marked; yet if the Defendant shall come and put in Pledges or Bail to the said Attachment, the Defendant may at the next Court non-suit the Action, and recover charges against the Plaintiff: which if the Plaintiffs Attorney were fee'd, might be prevented.

Four Court-days must first pass, before the Plaintiff can cause the Garnishee, which is *C.* in whose hands the monies was attached, to shew cause why *B.* shall not condemn the 100 *l.* attached in the hands of *C.* as the monies of *A.* the Defendant upon the Action (though not upon the Attachment, for *A.* hath no day in Court) to the use of *B.* the Plaintiff.

Then the Garnishee *C.* may appear in Court by his Attorney, wage Law, or plead that he hath no monies in his hands of the Defendant, or other special matter.

The Garnishees charge then, if he wage Law only, is,

Appearance, 2 s. 6 d.

The wager of Law, 4 s. 8 d.

If the Garnishee refuse to wage Law, the Plaintiff may try the cause in four Court-days following, after the *Scire facias* comes into the Court.

If the Garnishee will plead that he hath no monies in his hands of *A.* &c. the charge then of the Plaintiff and before is.

The Action and Return, 8 d.

The Officer, 1 s.

But if the Garnishee be not present, he will have 2 s.

The warning in the Garnishee, 1 s.

The Appearance by an Attorney, 2 s. 6 d.

The *Scire facias*, usually, 2 s.

The issue, 4 s.

The summons of the Jury, 4 s. 8 d.

If a *Subpœna*, 2 s.

The Counsel, 3 s. 4 d.

The Verdict of the Jury, 4 s. 6 d.

The Judgement, 2 s. 8 d.

Then the Plaintiff must put in Bail or pledge, that if the Defendant shall come within the year and the day

day next ensuing into the Court, and that he can discharge himself of the said monies so condemned in the Court, and that he owed nothing unto the Plaintiff at the time in the plaint mentioned; the said monies shall be forth-coming to the Plaintiff, viz.

The Plaintiffs Bail, 1 s. 4 d.
Satisfaction upon Record, 1 s. 4 d.

But if the Plaintiff giveth a Note and Warrant to his Attorney, he payeth more,

Two Warrants, 8 d.
The Attorneys Fee, 1 s. 8 d.

So likewise if the Plaintiff gives a warrant to his Attorney for satisfaction upon Record upon an Action, he payes the like sum of 2 s. 4 d.

If the sum attached be under 40 mark, then he payes but 3 s. 8 d. for the summons, and 3 s. 6 d. to the Jury.

An Attachment may be made for goods and monies at the same charge (but the sum must be certain) all upon the Attachment, and both in one *Scire facias*: If for goods, then a Judgement for an appraisement (if no appearance by the Garnishee) the charge, 2 s. then the Plaintiff proceeds to a Bill of appraisement, and to charge for the summoning of the Jury; then he must prove the value of the goods, and Judgement then passeth, 2 s. 8 d. then Bail and satisfaction.

Now an Attachment may be made in the Plaintiffs own hands, either of the Moneys, or goods, or both.

If of money, the charge,
The Action and Return, 3 d.
The Appearance by Attorney, 2 s. 6 d.
The *Scire facias*, 2 s.
The *Fiat executio*, 2 s. 8 d.
The Plaintiffs Bail, 1 s. 4 d.
The satisfaction, 1 s. 4 d.

Then

Then the Attachment is perfected, so that the Defendant can put in no Bail to dissolve the Attachment.

If the Attachment be made of goods in the Plaintiffs hands, then the charge is as followeth.

The Action and Return,	8 d.
The Officer,	1 s.
The appearance per Attorney,	2 s. 6 d.
The <i>Scire facias</i> ,	2 s.
The Judgement for appraisment,	2 s.
The Bill of appraisment,	2 s.
The Officers hand,	1 s.
The <i>Fiat executio</i> or Judgement,	2 s. 8 d.
The Bail,	1 s. 4 d.
The satisfaction,	1 s. 4 d.

But the Plaintiff must observe, that after Judgement is given by the Court for the appraisment of the goods, he must bring two Free-men of *London* into the Court the next Court-day following, there to be sworn that they have made an appraisment of the goods to the best of their skill and knowledge, who put their hands to the appraisment.

An Attachment is never thoroughly perfected, till there be Bail and satisfaction upon record; for that Bail may be put in by the Defendant to dissolve the Attachment: then all the Plaintiffs charge is lost, and himself never the nearer,

If an Attachment be made of goods, amongst which there are some Trunks or Boxes locked, it ought to be so returned by the Serjeant upon the Action; and the Court, the next Court after the four Courtdaies past, will grant Judgement for opening: which charge is, 2 s.

If an Attachment be made of Jewels, either in a mans own hands or in a third parties hands, it ought to be returned so upon record.

If an Attachment be made of moneys upon a
Bend

Bond or Obligation, the penalty must be attached : the Court afterwards will abridge it to the principal.

The Garnishees Fees.

The Garnishee (who is the party in whose hands the money is attached) being warned in (after the four Court-dayes are past, as before) to appear to shew cause why the moneys or goods attached in his hands shall not be condemned in Court to the use of the Plaintiff, must go to an Attorney in the Court, and give him his Fee : then if he can wage his Law, he may be discharged, by swearing he hath no moneys nor goods in his hands of the parties against whom the Attachment is made upon the payment of his Fees (as before is exprest) of 7 s. 2 d. But if he will plead, he must put in Bail or Pledges before the second Court-day after the *Scire facias* comes in : otherwise, for want of Bail put in, he is condemned for the whole sum ; then Judgement is awarded against him, and he left remediless to a tryal by a Jury : which if he put in Bail, and plead that he hath no money or goods in his hands of the parties against whom the Attachment is made, it will then be tryed by a Jury, and he may make his defence.

The Garnishees charge to a tryal.

The appearance by his Attorney,	2 s. 6. d.
The Bail,	1 s. 6 d.
Copy of the <i>Scire facias</i> .	1 s.
Issue,	4 s. 8 d.
The Attorneys Fee at trial,	1 s. 8 d.
If Counsel,	3 s. 4 d.

The Garnishee after a trial may put in Bail, in the absence of the party against whom the Attachment

is made, before the Lord Mayor, and so dissolve the Attachment, and all the proceedings thereon: but then he and his security are lyable to what Debt the Plaintiff shall make appear to be due from the Defendant. The proceedings then are as upon an Action, and the charge too alike.

The charge of putting in Bail before the Lord Mayor will be about 6 s. 8 d.

The party against whom the Attachment is made, may put in Bail at the Compter, charge 2 s. 8 d. or submit his Body, and thereby dissolve the Attachment; which he may do, or the Garnishee, at any time before satisfaction acknowledged upon record by the Plaintiff.

All the charges upon an Attachment are lost on the Garnishees and Plaintiffs part.

If the Garnishee fails to appear by his Attorney, being warned in by the Officer at the next Court to shew cause as is aforesaid; he is taken by default for want of appearing by an Attorney, and Judgement is given against him for the goods or monies attached in his hands, and he is left remediless, either at Common Law or Equity, by reason of his non-appearance, although he hath not one penny in his hands; and if taken in Execution, must pay the money, or go to prison: then he may put in Bail for the Defendant; but the Bail or Pledges are liable to what the Defendant owes to the Plaintiff, unless they can reprieve or bring forth the body of the Defendant to the Action.

If the money be attached in the Garnishees hand upon a Bond, or other contract under Seal, where the money is not become due at the day therein mentioned, the Garnishee may by his Attorney put in his plea; and set forth that day of payment is not yet come: and the Court will give him his day of payment accordingly.

If

If goods be attached in the Garnishees hands, and he hath a Bill of sale of the goods, he may plead it in Court, and so acquit himself.

If an Attachment be made of an Horse, Mare, Nag, or Gelding, the Attachment must so be returned: and if the Plaintiff prove either, it is good: otherwise if an Attachment be made of an Horse, and it proves to be a Mare, the Attachment will be avoided.

If an Attachment be made of a Horse or a Mare in an In-keepers hand, he appearing by his Attorney may put in his plea, setting forth that there is so much Horse-meat due; and the Court will give him his money, before the Plaintiff shall have Judgement for appraisement of the Horse or Mare.

No Attachment lies of Rent; whether for that the Land-lord being the Lessor may distrain on the goods, it is not here disputed.

Attachments remain in force as Actions. *Vide* the continuance of Actions as before.

When an Attachment is well-near expired of the sixteen weeks, the Plaintiff may move by his Attorney for the continuance of the Attachment for sixteen weeks longer; and it will be granted by a Rule in Court.

The charge,

2 s.

Rule,

4 d.

Then if the Garnishee happen to come into the City after the former sixteen weeks expired, and within the next four moneths, by the Rule obtained the Plaintiff may cause a Serjeant to warn in the Garnishee, to shew cause as is before; and the Garnishee shall be compelled to plead as before. The Plaintiff must cause the Rolls to be brought into the Court; which Port-Roll is 1 s. 4 d. and 2 s. 6 d. to his Attorney: the other Fees as before.

If

If the money or goods of a prisoner, either in the *Kings Bench* or *Fleet*, be attached in the Sheriffs Court, the prisoner may come from that prison, and submit his body to prison to the Action, and so dissolve the Attachment, and bring his *Habeas Corpus*, and go up in person before a Judge, and be turned over to the said prison where he formerly was a prisoner: but it must be done before satisfaction.

To hinder the Garnishees waging Law.

After the Plaintiff hath appeared by his Attorney, and put into Court his *Scire facias*, then if the Plaintiff hath two good Sufficient and lawful Citizens of *London*, that can swear, either by the Garnishees own confession, or of their knowledge, that the Garnishee hath either monies or goods in his hands of the parties against whom the Attachment is made, at the time of the Attachments making, or since, he may prevent the wager of Law; to which purpose he must get those two Free-men to make two *Affidavits* before the *Lord Mayor*, drawn up to that effect, and file them by his Attorney, to a plea called commonly an *Estoppel*, and bring the plea with the *Affidavits* annex, and offer them in Court; which will be accepted. Then the Garnishee is hindred in his waging of Law, and the Plaintiff at liberty to go on to tryal by a Jury.

The charge of the *Affidavits*,

6 s. 8 d.

The Plea,

7 s.

The Garnishee may either levate his cause into the Mayors Court by a *Levata Querela*, charge 5 s. 10 d. then he must agree for the certifying the cause up, as before upon an Action: or else he may bring a *Certiorari*, and remove it into the *Kings Bench*, or other superiour Court, and there put in Bail for the Defendant.

An

An Attachment may be avoided by filing an Original against the party upon the Attachment, so that it be filed before the date of the plaint.

After satisfaction upon Record, and when the money is fully condemned by the Plaintiff, the party against whom the Action is, and whose goods are attached, may come and put in Bail *ad disprobandum debitum*; the charge,

Bail,

2 s. 8 d.

Appearance,

2 s. 6 d.

then he must put into the Court his *Scire facias* 13 s. but it must be within the year and the day next ensuing after satisfaction.

Bail being put in, the Defendant may give a Rule by his Attorney for the Plaintiff to declare: but if the Plaintiff declare not, he shall be non-suited, and the monies given again to the Defendant.

If the Plaintiff declares, and the Defendant can discharge and justify himself by law that he ought nothing to the Plaintiff at the time in the plaint mentioned, then the Defendant shall have restitution of all such Goods and Chattels so taken, or of the value thereof, and of the monies which the party hath received by the Attachments: so likewise he shall have restitution of parcel of the debt, if the Defendant can discharge himself, although he cannot discharge himself of the whole: and if the party that made such Attachment, and had Execution, be not sufficient, then his pledges shall be charged.

If a man dies intestate, an Attachment may be made of monies or goods, or both, in a third parties hands; but then the Attachment must be entred against the Lord Bishop of London, reciting his name: but when there is a Will proved, or Letters of Administration granted, the Attachment dies, and it must be again made against such Executor or Administrator

nistrator, unless it be condemned fully in the interim.

Note that when a defendant hath put in Bail upon the Attachment, and so dissolved the Attachment, he may have a note from the Clerk directed to the Garnishee in whose hands the monies or goods were attached, certifying him, that the Attachment made in his hands is dissolved by the Defendants putting in Bail; so that then he may safely deliver the goods, or pay the monies to the Defendant.

Sequestrations.

A *Sequestration* is made upon an Action of Debt, as an Attachment: the charge much alike. The Action being entered, the Officer goes to the house, shop or ware-house, when there is none therein: then takes a Pad-lock, and hangs it on the door of the house, shop or ware-house, using these words or the like; *I do sequester this house, shop, &c. and the goods and Merchandizes therein of the Defendant upon the Action, to the use of the Plaintiff*: then puts on his Seal, and makes return thereof at the Compter upon the Action. Four Court-dayes being past, the next Court after the Plaintiff may have Judgement to open the doors and to appraise the goods by a Serjeant, who takes a Bill of Appraisment of the goods and Merchandises therein, having two Free-men who appraise them to the best of their skill and knowledge, of which they are to be sworn at the next Court holden at *Guild-Hall* for that Compter: then the Officer puts his hand to the Bill of Appraisment, and the Court granteth Judgement, as upon an Attachment.

The Defendant upon the Action may put in Bail before satisfaction, as upon an Attachment, and so dissolve

dissolve the Sequestration; or after satisfaction put in Bail *ad disprobandum debitum*.

The proceedings after are Bail are alike as upon Attachment.

The charge of a Sequestration for the Plaintiff.

The Action and Return,	3 d.
The Officer for making the Sequestration,	2 s.
The Padlock,	
The appearance,	2 s. 6 d.
The <i>Scire facias</i> ,	2 s.
The Judgement for opening, and the Appraisement,	2 s. 4 d.
The Officer for going to break open the door,	2 s.
The Bill of Appraisement, 2 s. 6 d. sometimes more.	
The Officers hand,	1 s.
The <i>Fiat executio</i> or Judgement.	2 s. 8 d.
The Bail,	1 s. 4 d.
The satisfaction,	1 s. 4 d.

That an Executor or Administrator may be advised how to dispose of the Testators or Intestates estate, he or she must pay all things in their kind.

1. He must be carefull to find out what Judgements be against the Testator or Intestate in his life-time, for that Judgements ought and must first be paid.

2. What Bonds or Bills, being both specialties, are under the Testator or Intestates hands; which must next be satisfied and paid.

3. What Book-debts are due or owing: these the Testator or Intestate may pay *ad libitum*.

4. Then pay Legacies.

For note, if an Executor or Administrator shall pay Bonds or Bills before a Judgement, it is paid in his or her own wrong: and so likewise if he or she pay Book-debts before Bonds or Bills, he or she is upon these

these cases liable to pay it again. Then after Debts are discharged, Legacies are to be paid.

It is the fear of many to administer, especially of Widows; yet without doubt it is the safest and best way: and the Widow may advantage her self thereby, so that she do observe to pay all things in their kind, as is before expressed.

If she be certain that there is no Judgement against her Husband in his life-time, then let her confess a Judgement upon one Bond or more, that shall amount with penalties to the value of the estate; and that Judgement shall barr all other Bonds or Bills and Book-debts whatever. And there is no danger in becoming pledge or bail for a Widow to any Action, upon such Bond or Debt brought against her.

The charge in confessing a Judgement.

The Action and Bail,	2 s.
The Declaration, Attorney, and Court,	4 s. 4 d.
The Judgement,	4 s. 4 d.
The Attorney to confess the Judgement,	2 s.
The Warrant,	4 d.

If Judgements be pleaded in *Guild-Hall*, she shall recover her charge against the Plaintiff, if the Judgements be confessed in that Court.

Concerning the Priorities of Judgements; there is no such thing; first come, first paid: for he that hath the last Judgement if he levie the goods in execution first, he shall be paid, and the rest laid aside, unless there be an Overplus of the goods, amounting to more then the sum contained in the Judgement.



THE
SOLLICITOR

In The
Lord Mayors Court
IN
LONDON.

CHAP. XXII.

ON the Lord Mayors side is held a Court both of Law and Equity; there is proceedings at Law by Action and Arrest of the Body, or else by Attachment of the Defendants goods; and the proceedings in that case much like the other Courts of Common Law.

There is also a Court of Chancery or Equity held before the Lord Mayor, wherein they do proceed by English Bill, Answer, Replication and Rejoinder, much like the proceedings in the High Court of Chancery.

This Court is held Mundaies, Tuesdaies, and every
M m day.

day in the week, if the Lord Mayor please to sit.

There is a practice called marking of a cause before the Lord Mayor, which is, after a verdict given for the Plaintiff in the Sheriffs Court, the Defendant gets the Cause marked before the Lord Mayor, which is done by one of the Clerks in the Lord Mayors Court, and is like an Injunction in Chancery, to stay Judgement and execution untill the matter be examined in Equity; where the Lord Mayor doth oftentimes, if cause be, mitigate the damages, or give the Defendant time to pay it.

The Custome of *London* is, that if a plaint of Debt be entred in the Sheriffs Court, upon suggestion of any of the parties, the Mayor may send for both of them, and examine them upon the truth of the matter before Judgement; and if he finde that the party is satisfied, that of so much he may bar him, but not after Judgement, 10 H. 6. 14, 15.

Where he in the Reversion upon a Lease for years is impleaded of Lands in *London*, and makes default, the Mayor is to enquire by Neighbours in the presence of the Termor and Demandant whether the plea be moved by a good right, or by fraud, to make the Termor to lose his Term: and if it be found upon a good right, the Demandant shall have Judgement presently; and if not, the Termor shall have his Term, and the Execution of the Judgement shall be suspended. Stat. Glouc. Chap. 11. Deceit, 1.



CHAP. XXIII.

Of Forein Attachments in London.

BY the Custome in *London*, one may attach money or goods of the Defendants, either in the Plaintiffs own hands, or in the custody of a third person, and either in the Mayor or Sheriffs Courts; and there if the Defendant appear not, the goods may be condemned: the Attachment is entred in the Office as Actions are, but with this Difference; they enter the hour of the day when the Attachment is made: for if many Attachments come against one mans goods, the first is first served.

He whose goods are attached in another mans hands, may come and offer himself to prison, or put in Bail, and dissolve the Attachment; and after may have a writ of privilege, although he render himself to prison gratis, because he was in there by vertue of a plaint. But the Plaintiff may have a new plaint against the Defendant, and attach him by his goods, and then the Defendant may remove it by a *Certiorari*; and when the second plaint is removed to the Common Pleas, the Justices shall examine if the goods were attached for costs of suit, or for Merchandizes: and if for costs of suit, then the Defendant shall be discharged; But if it be found by Oath that they were Attached for Merchandizes, or for any other cause than before then it shall be remanded.

But if the party were in Execution in *London*, and afterwards suit is Commenced in the Common Pleas, a Writ shall go to the Mayor and Sheriffs to have the Prisoner there to answer and to make Attorney, and then he shall be sent back: but if he were impleaded in the Common Pleas, and afterwards Arrested in *London*, and this Court send for the party, he shall be discharged of the suit in *London*, by the privilege of this Court, *M. 38 H. 6. 12 P. 2.*

When an Attachment is made in the hands of a third person, there after the defaults, the Defendant within the year and a day may put in Sureties to answer the Plaintiff the duty, or may yield his Body to Prison, if that he cannot find Sureties: and therefore in a Writ of privilege after he had yielded his body to Prison, he was Bailed; and because the yielding was after the suit in the Common Pleas by the Defendant *gratis*, where the Attachment was before the suit in the Common Pleas, the Defendant was sent back again to prison in *London*; but where upon a *Capias* out of the Common Pleas, and *nihil* returned, the Defendant is Arrested in a base Court, coming to this Court, he shall have the privilege of the Court, because it is an Arrest of his Body, *M. 20 H. 6. 3 p. 1.*

And note, the Defendant shall not be attached by such goods which he carrieth with him to disburse upon his suits which he hath here, although it be more than he need to disburse, but he shall have privilege for them, so as they shall not be attached after a suit commenced in the Common Pleas against him, although he cometh into *London* in the Vacation for the continuance of his suit here.

In Debt it was pleaded in Bar, that by the Custom a plaint was entered before the Mayor and Aldermen in *Camera Guild-hall*, and a *Summons* to the Defendant

Serjeant to summon the Defendant to be at the next Court to answer the Plaintiff; and if the Serjeant *ore Teaus* certifie that the Defendant hath not any thing, &c. and the Defendant maketh default also at the next Court, and by the Plaintiff by word it is certified, that any one is indebted unto the Defendant in the whole or parcel of the summons, that then he may attach the Defendant by that summons to answer the Plaintiff; and if the Defendant upon that summons, and three other summons, appears not being demanded, then a *Scire facias* shall be to the *Garnishee*, to know why the Plaintiff should not have Execution: and when he comes and acknowledgeth that he ought to pay the sum to the Defendant at a certain day to come, Judgement shall be, that he shall pay it to the Plaintiff at that day, in satisfaction of so much as, &c. and he shall find sufficient Main-pernors to pay it at the day to the Plaintiff: and after sureties found, and Execution, the *Garnishee* shall be discharged of so much as is demanded, and the Defendant also of so much against the Plaintiff: and if the Defendant after Sureties found to pay before the Plaintiff hath Execution, come and finde sufficient Sureties to answer the Plaintiff till the end of the suit, then the *Garnishee* shall not be discharged of the sum attached, nor the Defendant against the Plaintiff. But depending any such Attachment not detained; and before Execution, the Defendant shall not have an Action of Debt against the *Garnishee*, if he shew and alledge the Attachment against the Defendant. *Book Entries C. 10. 141. p. 1.*

Where a Debt is due to two upon an entire Bond, and an Attachment is made in the hands of the Debtor, as to the Moyerie for the Debt of one, and he hath Execution, there it is a Bar as to that Moyerie against

against both, as well as if one of them had released or made an acquittance; and by the consuance of one in a Court of Record, he may bar his companion of the whole, or parcel of the Debt: and that custome is as strong and substantial a discharge, as if he had released, 22 H. 6. 40.

In Debt brought in the Common Pleas upon an Obligation of an hundred pounds, the Defendant pleaded Recovery by a forein Attachment, against the Defendant, (and mistook the Custome,) and that the Judgement was against him: upon which the Plaintiff traversed it, and said, that there was no such Custome: And the Mayor certified that there was no such Custome: whereupon the Plaintiff had Judgement, 2 H. 3. 3. *o. 1.*

In Debt in the Common Pleas the Defendant pleaded a Recovery against him by forein Attachment by the Custome, and that Judgement was against him, and that he should be discharged before Execution, where in truth the Judgement by the Custome ought to be, that he shall be discharged after Execution: and the Plaintiff said that there was no such Custome in *London*, and thereupon a *Certiorari*, where the Custome was certified at large; and that after the four defaults, he who is attached shall finde new Sureties to the Plaintiff for the same debt; and that shall be, that the Plaintiff shall have Judgement against the *Garnishee*, and that he shall be acquitted against the first debtor after the Execution. And upon that certificate the Plaintiff here prayed Judgement, and had it, as appeareth after: for the Traverse is good, without being put to reverse the Judgement by a Writ of Error, although that they of *London* are Judges of the Record: for when there is not any such Custome, that which was done, was *Coram non Judice*, and those who are but particular Judges,

as in *London* and other Cities and Towns corporate, they have not power but within their own precinct; But if there be a Judge universal, there he hath power to hold plea of every contract made in any place, if not within a County Palatine, and there if Judgement be against the form of Law, it shall be reversed by Error, 22 E. 4. 31, 32.

By the Custome of *London* a man may make a fe-rein Attachment in his own hands; and the form is, that the-plaint and summons shall be against the party whose goods or debt shall be attached; and upon default, then to make a surmise, that he himself hath goods of the party Defendant in his own hands, and pray that they may be attached: and after the four defaults come in Court, to finde Sureties to render to the Defendant the goods or debt, or the value of them, according as they shall be appraised, if the Defendant come within a year and a day, and disprove the Plaintiffs demand, &c. and if the Defendant doth not come within the year and the day, and can bar the Plaintiff, that the Plaintiff shall have Execution: and there it was said that *Covin* could not be, but betwixt two persons at the least. And because it was said, after the year, that the Recovery was by *Covin*, and the party did not traverse the cause of the Debt, the Plaintiff had Judgement, and the Attachment held good, 39 H. 6. 19 P. 1.

It was agreed, that the Custome of Attachment in *London* was good, and also that the Creditor may arrest such goods that the Debtor hath in his possession: and if none came within the year to make claim, that then they shall be apprized for the debt.

In a Town Corporate, having a Court of Record, in a plaint of debt, summons was ro the under-Bailiff who returned the party summoned by two, and made default; for which process of Attachment was, and the Bailiff

Bailiff returned that he had attached him by forty Clothes, which remained in the hands of the Bailiff; and upon that, a second Attachment was by the said Clothes, and so untill three defaults: and the Bailiff returned that he had not other goods to be attached, and thereupon day was given till another Court, that the Defendant came to answer or to hear Judgement; at which day Proclamation was made by the Custome of the Town, that the Defendant appear to answer; and because that he appeared not, Judgement was given for the Plaintiff, and the Clothes were prized by the Oath of six persons to twenty four pounds, and afterwards delivered to the Plaintiff in Execution. *Entries, 203 P. 2.*

In detinue of two Gowns, the Defendant said that a plaint was entred against the Plaintiff by the now Defendant, upon a demand of thirty shillings, for which the Plaintiff was attached by the two Gowns within the City; and because the Plaintiff made four defaults which were Recorded, the two Gowns were appraised at twenty shillings, upon the Oath of two men, and then the two Gowns were delivered to the Defendant at the price of two and twenty shillings, by Sureties to restore the two Gowns, or the price, if the Plaintiff did disprove the Debt; and because the Mayor, Aldermen and Sheriffs, had all the Records *ore Tenus* remaining amongst themselves, for that cause a Writ went to the Sheriffs to certifie whether there were such a Record or not. *B. entries, 207. P. 2.*

Where a man is bound to deliver Wheat at such a Wharf, at such a day, and at such a value, by an obligation; There the Creditors cannot attach it before the day in his hands by the Custome of London: for the Wheat is not the duty of the obligation; and a man cannot be attached by any goods whereof he hath not a property at the time of the Attachment; and

and the party hath not property in the Wheat till after the day, without delivery of it; for if he do accept another thing for it, it is good.

CHAP. XXIII.

*Of the Court of Orphans
in the City of London.*

BY the Custome of the City of *London*, the Lord Mayor and Aldermen of the City of *London* shall have the custody of all *Orphans* within the City; and they may commit the custody of such *Orphans* to other Guardians: and if an *Orphan* be taken away from any other man to whose custody he is committed, he shall have a writ of Ravishment of ward; so that in this case, this Court doth in some wise resemble the late Court of Wards.

Likewise the Lord Mayor and Chamberlain of the City of *London*, for the time being, shall have the keeping of all the Lands and Goods of *Orphans* within the City: saving to the King and other Lords their Rights of such as hold of them out of the same Liberty.

Executors and Administrators are to exhibite true Inventories before the Lord Mayor and Aldermen, and give security to the Chamberlain for the time being by Recognizance: and if they shall refuse so to do, the Court may commit them to Prison until they do it.

And all such Recognizances or Bonds made to the
Cham-

Chamberlain concerning *Orphans*, shall go to him and his Successors, the Chamberlain of the City being a sole Corporation for *Orphans*. If the Ecclesiastical Court doth impugn the Custome of the Court of *Orphans*, or if they intrude into this Court, a prohibition lies out of this Court; or if any *Orphan* sue in the Ecclesiastical Court or elsewhere for a Legacy, or any duty due unto them, the Court of *Orphans* may by the Custome grant a prohibition. *Cook Instit.* 4 part, pag. 249.

Also by the Custome of *London*, if a Father advance any of his Children with any part of his goods, that shall bar them to demand any further, unless the Father under his hand, or in his last Will and Testament, doth declare that it was but in part of advancement; and then that Child so partly advanced, shall put his part in *Hotch-pot*, with the Executors and Widow, and have a full third part of the whole, accounting that which was formerly given him as part thereof. This the Civil Law calls *Collatio bonorum*.

CHAP. XXV.

Of several other Courts, Customes and Franchises of London.

The Court of Common-Counsel.

THIS Court is held by the Lord Mayor, Aldermen and Commonalty, resembling the high Court of Parliament; and consists of two Houses, the Lord Mayor and Aldermen being of the upper House

House, and such as are chosen in every Ward out of the Commonalty constitute the Lower House or House of Commons, and represent the whole Commonalty of the City of London.

Here they make Acts for the better government of the City, for the better Execution of the Laws and Statutes of the Kingdome, for the publick good, and for the better advancement of Trade and Traffick, so as these Laws be not contrary to the Laws and Statutes of the Kingdom: and these Acts of Common-Counsel so made, do bind within the City and the Liberties thereof.

The Court of wardmote-Inquest.

This resembles the Countrey-Leets, every Ward being as a Hundred, and the Parishes as Towns; and in every Ward there is an Inquest of twelve or more sworn every year, to enquire of and present *Nuſances* and other offences within the Ward, &c.

The Halmote.

This is as much as to say the Court of the Hall, being the Court which every Company in London keeps in their Halls, which was antiently called the Halmote or Polkmote.

The Chamberlains Court for Apprentices.

Before the Chamberlain all Indentures of Apprentices are or ought to be inrolled; and if they be not inrolled, the Apprentice may refuse to serve, and sue out his Indenture in this Court at his pleasure, and be discharged from his Master.

The Chamberlain is the Judge in all complaints
either

either of the Servant against the Master, or the Master against the Servant, and punisheth the offender at his discretion.

In this Court are all Apprentices made Free. One may be free of *London* three manner of waies; either by Service, as are Apprentices; or by birth-right, as being the Son of a Freeman, which is called Freedom by his Fathers Copy; or by Redemption, by order of the Court of Aldermen.

*The Court of the Conservator of the water and
River of Thames.*

The Lord Mayor of *London* for the time being is the *Conservator* or governour, and hath the Rule and government of the water and River of the *Thames*, and the issues, breaches and lands overflown, from *Stanes-Bridge* unto the water of *Tendal* and *Medway*; and hath Authority touching the Correction and punishment of such as use unlawful Nets or Engines in fishing, or do take Fish under Size, or unseasonably, &c. 4 H. 7. Cap. 15.

And in all Commissions touching the water of *Lee*, the Mayor of *London* shall be one, 3 Jac. Cap. 14.

CHAP. XXVI.

Of the Court of Admiralty.

THIS COURT is holden at the Doctors Commons in *London*, and is, for the decision of *Maritime* causes, that is, things done *super Altum Mare*, upon the main Sea.

This

This Court it is supposed was not put out of the Kings house, and given over unto the Charge of the Admiral, until the time of *Edward* the 3. who was much busied with Affairs beyond the Sea, by reason of the wars in *France*, and of the intercourse of Trade and Merchandize which then flourished; and because there is no mention made of this Court before the second year of King *Richard* the Second, who in the 13 year after his coming to the Crown, by Act of Parliament restrained the Authority of this Court, which had exceeded her known Limits, and reduced her Authority to her known Limits.

13 R. 2. cap. 5. It is enacted that the Admirals and their deputies shall not meddle from henceforth with any thing done within the Realm of *England*, but only with things done upon the Sea, according to that which hath been duly used in the time of the Noble King *Edward*, Grand-father of King *Richard* the Second; by which it is evident that the Court of Admiralty hath Jurisdiction only in things done upon the Sea.

Stat. 15 R. 2. Cap. 3. It is enacted that the Court of the Admiral hath no manner of Consuance, power or Jurisdiction of any manner of Contract, Plea or Quarrel, nor of any other thing done or rising within the bodies of the Counties, either by land or by water, and also wreck of the Sea, but all such manner of Quarrels, Pleas and Contracts, and all other things rising within the bodies of the Counties, as well by land as by water, as is aforesaid, and also wreck of the Sea, shall be tried, determined, discussed and remedied by the Laws of the Land, and not before nor by the Admiral nor his Lieutenant, in no manner: nevertheless of the death of a man, and of a *Mayhem* done in great Ships, being and hovering in the main Stream of the great Rivers,

Rivers, only beneath the points of the same Rivers, and in no other place of the same Rivers, the Admiral shall have Consuance. Here note, the Admiral hath a greater Jurisdiction in case of the death of a man, and *Mayhem*, then in other cases; for in all other cases happening within the *Thames*, or any other River, Port or Water, which are in any County of the Realm, (as all Rivers and Havens be) the Admiral or his Deputy hath no Jurisdiction at all.

Stat. 27 *Eliz.* Cap. 11. likewise limits the Jurisdiction of the Admiralty, *viz.*

All and every such of the said offences before-mentioned as hereafter shall be done on the main Sea, or Coasts of the Sea, being no part of the body of any County of this Realm, and without the Precinct, Jurisdiction and Liberty of the Cinque-Ports, and out of any Haven or *Pier*, shall be tryed and determined before the Lord Admiral.

If goods be taken from an English man in *Spain* beyond the Sea, and the party cannot obtain Justice there, he shall have a Writ to the Sheriff to arrest the body of the offender, and to seize his goods to the value. *Regist. origin.* fol. 129. *F.N.B.* 114. so that where the party can have remedy at Common-Law, the Admiral cannot hold plea.

If a Charter-party or any other contract be made without any City, Town or County of the Realm, though the performance thereof be to be done and performed upon the high Sea, yet the Admiral hath no Jurisdiction, because it may be tryed at the Common Law: but where the whole is to be done *Super Altum mare*, and no part of it *infra corpus comitatus*, there the Admiral hath Jurisdiction. For causes of actions which are transitory, done out of the Realm, an Action may lye at the Common Law; but if the cause done beyond the Sea be Criminal or local, then

then before the Constable and Marshal only.

It is no part of the Sea, where one may see what is done of the one part of the Water and of the other, as to see from one land to the other. That the Coroner shall exercise his Office in this case: and of this the Countrey may have knowledge, 3 E. 2. tit. Coron. 399.

If one be slain upon any Arm of the Sea, where a man may see the land on the one part, and of the other, the Coroner shall enquire of this, and not the Admiral, because the Countrey may take consueance of it. *Stanford, l.b. 1. pl. coron. f. 51. b.*

An Action of Trespass was brought against certain persons for taking of a Ship in the Haven at Hull; the Mayor and Bailiffs of Hull demanded *Consueance* by the charter of the King granted unto them, that the Citizens and Burgeses of Hull should not be impleaded *Alibi de aliquibus transgressionibus, conventionibus & contractibus infra Burgum, &c. quam infra Burgum*, elsewhere of any Trespasses, Covenants and Contracts within the Burrough, &c. then within the Burrough; and the *Consueance* was granted: by which it appears, that the Haven of Hull where the Ship did ride, was *infra Burgum de Hall*, and *infra corpus comitatus*, and determinable at the Common Law, and not in the Admiralty Court, 46 E. 3. tit. *consueance* 36.

A Charter-party by deed indented was made at T. in the County of N. between E. C. of the one party, and H. G. of the other part: by the which C. did covenant with G, that a certain Ship should sail with Merchandizes and Goods of H. G. to M. in Spain, and there should remain by certain daies, &c. upon the breach of which covenant, G. brought an Action of Debt of 500 l. upon a clause in the same Charter, and alledged the breach of the Covenant, for that the
Ship

Ship did not remain at *M.* in *Spain* by so many daies as were limited by the covenant; whereupon issue was taken and tryed, and found for the Plaintiff: and in Arrest of Judgement it was shewed, that this issue did arise out of a place totally and meerly in a forein Kingdome out of the Realm, from whence no Jury of twelve men could come, and therefore the tryal was insufficient: but it was adjudged that the Plaintiff should recover 500*l.* besides his damages and costs, for that the Charter-party, whereupon the Action is brought, was made at *T.* within this Realm; and that the tryal being in the same place where the Action was brought, was sufficient, *Pasche, 28 Eliz. in Banco Regis.*

So that where part of the contract or other thing is made in any place, within any of the Counties of this Realm, though the performance thereof be *Super Altum mare*, upon the high Sea, yet the tryal and determination of the whole Act belongeth to the Common Law, and is not within the Admiralty Jurisdiction.

CHAP. XXVII.

Of Ecclesiastical or Spiritual Courts.

THese Courts were anciently called *Halimots*, that is Holy Courts; *Chirogemots* or *Chirogemots*: they are many in number, and different in nature. The greatest and highest of them is called the Convocation, of all the Arch-Bishops, Bishops, and the whole Clergie of both the Provinces of *Canterbury*

bury and York, the which is alwaies summoned by the Kings Writ called *Adjutoria Regis*, and can do nothing without the Kings assent first had and obtained.

This Convocation consists of two Houses; the upper, where sit the Arch-Bishops and Bishops, and the lower, where the other Clergie sit: the whole Clergie of both Provinces being to be present in person, or by representation. 24 H. 8. cap. 12. 13 Eliz. cap. 12.

Their Jurisdiction is to deal with Heresies, Schisms, and other Spiritual and Ecclesiastical causes proceeding therein *juxta legem divinam*, & *canones sanctæ Ecclesiæ*.

The next to these be the two Provincial Synods of Canterbury and York, the later of which hath three other Bishopricks subject to it, *viz.* Durham, Carlisle and Chester; all the other owing their obedience to the See of Canterbury.

There was formerly an high Commission, but that is dissolved by Act of Parliament, Anno 12 Car. 2 Regis.

Then there is the Court of Delegates, to which there lyeth an appeal from Sentence given in the Arches.

After these be the general Courts of the Arch-Bishop of Canterbury, that is to say, the Consistory, or Court of Arches, as well for appeals as matters of the first instance.

The Court of Audiences, or the Chancellors Court, which was wont to be holden in the Arch-Bishops house.

The Commissionaries, (or the Prerogative) Court, for the probate of Wills, and granting administrations; and the Court of Faculties and Dispensations: but this last holdeth no Plea of Controversie.

Then there are the Special Courts of this Arch-Bishop, as the Consistory holden by his Commissary at Canterbury for his own Diocess, his Arch Deacons

Court, and the Court of those peculiar Deanries which do belong unto him, and do lie in the Dioceſs of other Biſhops.

The Arch-Biſhop of *York*, and every other Biſhop alſo, hath in his Dioceſs the Court of his Chancellor, and the Court of his Arch-Deacon or Official.

The Judges of theſe Courts are either *Civilians* or *Divines*: and the Pleaders both in the Admiralty and Eccleſiaſtical Courts be Doctōrs and Proctōrs of the Civil Laws: what their Fees are, they will ſoon reſolve you, if you have occaſion to uſe them.

CHAP. XXVIII.

The Court of the Dut- chy-Chamber at Weſt- minſter.

THE Court of the Dutchy took its beginning out of the grant of King *Edward* the Third, who firſt gave that Dutchy to his Son *John* of *Gaunt*, and endowed it with Royal Rights. Afterwards it was extinct in the Perſon of King *H. 4.* by reaſon of the union of it with the Crown of the Realm; But the ſame King knowing himſelf to be more rightſul'y Duke of *Lancaſter* than King of *England*, determined to ſave his Right in the Dutchy, whatſoever ſhould befall him in the
Right

Right of the Kingdom : wherefore he separated his Dutchy from the Crown, and settled it so in the natural person of himself and his Heirs, as if he had been no King or politick Body at all : and so it continued during the Reigns of *King H. 5.* and *King H. 6.* who descended from the same *King H. 4.*

But when *King Edward* the Fourth had restored the Crown under the Right of the House of *York*, he appropriated that Dutchy to the Crown again : and so it continued with the Crown untill the Reign of *King H. 7.* who liking well of the policy of *King H. 4.* by whose Right also he obtained the Kingdom, separated the Dutchy again from the Crown as he had done before, and so left it to his posterity, who yet enjoy it.

The proceedings in this Court of the Dutchy-Chamber at *Westminster*, is as in a Court of Chancery for Lands and other matters within the jurisdiction of the Court, by English Bill, &c. and Decree : but this Chancery is not a mixt Court, as the Chancery of *England* is, partly of the Common Law, and partly of Equity, but admitting only some small mixture of the Common Law, in some special cases.

And in some things they are led by their proper customs and prescriptions respectively.

There is also a Chancellor of the Countie *Palatine*; and the Process of this Court is first a Privy Seal, and Attachment and Commission of Rebellion in case of contempt, as in the Chancery.

The Officers in this Court be the Chancellor, the Attorney, Receiver-general, the Clerk of the Court, the Auditors, Surveyor, the Messenger.

There is an Attorney of the Dutchy in the Chancery, and another in the Exchequer.

There be four learned in the Law Assistants and of Counsel with the Court.

The Seal of the Dutchy of *Lancaster* remains with the Chancellor at *Westminster*, and the Seal of the County *Palatine* remains alwaies in the County *Palatine*, under the custody of the Keeper thereof. All Grants and Leases of Lands, Tenements, Offices, &c. in the County *Palatine* of *Lancaster* shall pass under that Seal, and no other; and all Grants out of the County *Palatine*, and within the Survey of the Dutchy, shall pass under the Seal of the Dutchy, and no other, 27 H. 8. cap. 16.

Justices of Assize of Gaol-Delivery, and of the Peace, are, and ever since the erection of the County *Palatine* of *Lancaster*, have been made and assigned by Commission under the Seal of the County *Palatine* of *Lancaster*.

In the County *Palatine* of *Lancaster*, Fines are levied with three Proclamations before the Justices of Assize there, or one of them: and all Recoveries to be had of any Lands or Tenements in the County *Palatine*, are to be had in the Court of that County, and cannot be had at *Westminster*.

In Trespass in the County *Palatine* of *Lancaster*, the Defendant pleaded a Forcain Release; the Court prefixed a day to the parties in Bank; the Record must be removed by *Certiorari* in Chancery, and by *Mittimus* into the Bench, there to be tryed, 22 H. 6. 48.

If Issue be joyned in the Kings Bench or Common-Bench tryable in the County *Palatine* of *Lancaster*, it shall be tryed in the County of *Lancaster*, and remanded hither, 27 E. 3. 84. 21 H. 7. 33.

It is called *Comes Palatinus*, a County *Palatine*, because the owner thereof, be he Duke or Earl, hath all Royal Rights, Franchises and Priviledges, as the King had in his Palace; and might pardon Treas-

Treasons, Murders, Felonies, and Outlawries upon them; Institute and ordain Justices of Assize, Gaol-delivery, and of the Peace: And every Writ and Indictment in a County *Palatine* was supposed *contra pacem* of him that had the County *Pal.* and in his name is the *Teste* of all Writs; but the Writs were made in the Kings name. But these and some others are now taken away, and annexed to the Crown, 10 H. 7. 6, 8. 27 H. 8. *Cap.* 24. *Pasch.* 11. 288, 289.

CHAP. XXIX.

Of all other Courts of Record in Cities, Liberties & Towns Corporate.

I Have spoken before of a Court of Record holden for *St. Martins le Grand* by Aldersgate: there is also a Court of Record holden in the Tower of *London*, for the liberty of the Tower; and another at *St. Katharines* for that Liberty; and a Court of Record kept weekly in the Burrough of Southwark for the Liberty thereof; together with many Courts of Record belonging to Castles, Forrests, and decayed Monasteries, as that of the Honour and Castle of *Windsor*, and of the dissolved Monastery of *St. Augustin* by *Canterbury*, *cum multis aliis*. The style and Title of these Courts, and all other, I have given you already in the Chapter of the Common Pleas, under

under the Section of the direction for Writs: and as to the formality of their practice (except where they have some particulars Customs, as in London) they all proceed *ad exemplum* of the Common Pleas and Kings Bench generally: so that being acquainted with the practice and proceedings in these superiour Courts, which I have largely and plainly herein demonstrated unto you, the inferiour will easily appear obvious to your understanding.

John A. D. [unclear] [unclear]



FINIS.

[Large flourish]

9	60	79
0	01	62
9	61	45

9-61-62

as
y
ll
gs
ne
s,
ed
to